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HOUSE OF REPRESENTATIVES

OF THE

COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1940

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JOURNAL

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HOUSE OF REPRESENTATIVES

OF THE

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REGULAR SESSION, 1940

TUESDAY, JANUARY 30, 1940

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Harry W. Alexander of the Southern Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

J. Everett Bach	Douglas T. Bolling	Haynes Carman
H. T. Baker	J. F. Bosworth	Charles M. Carter
Robert E. Barry	W. S. Brim	James W. Chapman
Wm. T. Beard	C. J. Bronston	S. B. Chrisman
Alvis S. Bennett	Gus A. Brooks	John Coulter
Sterling B. Blake	Randolph A. Brown	John H. Cox

Pink G. Curd	W. A. Lamkin, Jr.	Carl Scheben
W. Q. Daniel	Harvey D. Leonard	Leon J. Shaikun
Stanley S. Dickson	Edward Leslie	Ray O. Shehan
Forest C. Easley	W. Paul Lyon	Faust Y. Simpson
D. E. Edwards	C. C. May	Bruce Sloan
Harry W. Ennis	T. B. McConnell	Otto Smither
R. R. Ernst	Frank C. McElwain	G. C. Springate
Carlos Fallis	E. Hayes McMakin	J. Claude Stacy
T. P. Fitzpatrick	Norris McPherson	Ray J. Stengel
Cecil Florence	G. Sam Milam	Henry Stewart
Wayne Freeman	Stanley C. Moebus	W. St. Clair Stuart
Eugene Gough	Davis Moore	T. M. Swope
Van Y. Greene	J. Lee Moore	Otis C. Thomas
Ralph C. Hamilton	John B. Mollette	Erna E. Tyra
C. L. Hammons	C. Homer Neikirk	J. Wood Vance
T. H. Hickey	Carl D. Perkins	Walter R. Vansant
Clyde S. Howard	B. W. Porter	S. J. Wagner
Chester Huffines	H. O. Porter	Porter Wallace
John M. Hunnicutt	Kleber F. Price	Harry F. Walters
W. H. Hunt	Hobart Rayburn	Henry Ward
J. B. Jarboe, Jr.	Thomas Rigdon	H. L. Waterfield
Chas. X. Jones	W. H. Riley	Otis White
John S. Juett	Lyman Roll	James H. Woods
William K. King	Jack Savage	—89

Mr. J. Lee Moore moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. J. Lee Moore moved that the session of to-day be extended indefinitely.

Said motion was agreed to.

Mr. Hammons moved that the privilege of the floor be extended to Judge and Mrs. William Lewis of London,

Kentucky and Mrs. Charlie Williams of Frankfort, Kentucky.

Said motion was agreed to.

Mr. Perkins moved that the privilege of the floor be extended to Mr. J. B. Wicker, former member of this House.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Mr. R. B. Young of Middlesburg, Kentucky.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Mr. Robert Hensley of Burlington, Kentucky.

Said motion was agreed to.

Mr. H. O. Porter moved that the privilege of the floor be extended to Messrs. R. B. Boggs, A. K. Caywood and Clayton Sallee.

Said motion was agreed to.

Mr. Easley moved that the privilege of the floor be extended to Messrs. Baker, Beck and Swanson of Shelbyville, Kentucky.

Said motion was agreed to.

Mr. Swope moved that the privilege of the floor be extended to Messrs. Lee Spillman of Lexington, Kentucky and T. Brumbaugh and L. Sewell of Winchester, Kentucky

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be extended to Mr. G. A. Brooks.

Said motion was agreed to.

Mr. Chapman moved that the privilege of the floor be extended to Mr. Robert M. Odean of Lexington, Kentucky

Said motion was agreed to.

Mr. Scheben moved that the privilege of the floor be extended to Messrs. Milton Lape and Albert Bird of Campbell county.

Said motion was agreed to.

Mr. Hunnicutt moved that the entire delegation from Jefferson county escort the Honorable Louis B. Dugan, newly elected member from Jefferson county, 56th District to fill the vacancy caused by the death of The Honorable Adolph Wells, to the bar of the House and that Mr. Shaikun by reason of his seniority in service as a member of this House from the county of Jefferson, act as Chairman of said Escort Committee and introduce Mr. Dugan to the Speaker and to the members of the House.

Said motion was agreed to..

Thereupon Mr. Dugan was escorted to the bar of the House and introduced to the membership thereof by Mr. Shaikun, where he presented the following certificate of election, viz.:

Commonwealth of Kentucky
County of Jefferson

CERTIFICATE OF ELECTION

We, the undersigned, duly authorized to canvass the returns of the county of Jefferson do hereby certify that at the Special Election, held in said county on Saturday, January 27, 1940, the following vote was tabulated for the office of Representative, 56th Legislative District of Jefferson county, Kentucky.

For Louis B. Dugan ..... 1779 votes
For Mrs. Lilliam P. Wells ..... 1404 votes

Louis B. Dugan having received the highest number of votes cast for the office of Representative, 56th Legislative District, Jefferson county, Kentucky, he was duly elected to fill the office of Representative, 56th Legislative District, Jefferson county, Kentucky.

Witness Our hands, this the 29th day of January, 1940, at Louisville, Kentucky.

J. HUNTER MATTHEWS
Chairman Jefferson county Election Commission
MARVIN H. TAYLOR
Republican Election Commissioner
LAWERENCE J. MACKEY
Democratic Election Commissioner

Thereupon, as required by the Constitution and laws of the Commonwealth of Kentucky, Mr. Louis B. Dugan took the oath of office, which was administered by the Honorable Henry Tilford, Judge of the Court of Appeals.

The following bills and resolutions were introduced, viz.:

By Mr. Juett.

H. B. 249. AN ACT to provide for the issual of in

transit license plates, and the fees to be charged therefor, and prescribing the manner in which said in transit license plates shall be affixed to vehicles while being operated over and upon the highways of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by The General Assembly of the Commonwealth of Kentucky:

§ 1. "Any person, firm or corporation engaged in the business of transporting and delivering by means of the full mount method, the saddle mount method, the tow bar method, or any other combination thereof, and under their own power, new vehicles over the highways of the Commonwealth of Kentucky from the manufacturer or any other point of origin, to any point of destination, within or without the Commonwealth of Kentucky, shall make application to the Commissioner of Motor Transportation for a drive-a-way in transit license. This application for annual license shall be accompained by a registration fee of Two Hundred and Fifty Dollars ($250.00) and shall contain such information as the Commissioner of Motor Transportation may require. Upon the filing of the application and the payment of the fee, the Commissioner of Motor Transportation shall issue to each drive-a-way operator a general distinguishing number, which number must be carried and displayed by each motor vehicle in like manner as is now provided by law for vehicles while being operated upon public highways and such number shall remain on the vehicle from the manufacturer, or any point of origin, to any point of destination within or beyond the Commonwealth of Kentucky. Additional plates bearing the same distinguishing number desired by any drive-a-way operator may be secured from the Commissioner of Motor Transportation upon the payment of a fee of Five Dollars ($5.00) for each set of additional license plates. Any person, firm or corporation engaged in the business as a drive-a-

way operator of transporting and delivering by means of full mount method, the saddle-mount method, the towbar method, or any combination thereof, and under thier own power, new and used motor vehicles, who fails or refuses to file or cause to be filed an application, as is required by law, and to pay the fees therefor as the law requires, shall be found guilty of violating the provisions of this Act and upon conviction be fined not less than Fifty Dollars ($50) and not more than Two Hundred Dollars ($200) and all costs of Court. Each day so operating without securing the license and plates as required herein shall constitute a separate offense within the meaning of this Act.

§ 2. "Any person as hereinbefore defined pulling or towing any vehicle designed, equipped or intended to operate under its own power, said pulling or towing being accomplished by another vehicle when operating upon any public highway of the Commonwealth of Kentucky, shall before such pulling or towing, file with the Commissioner of Motor Transportation a liability insurance policy or bond covering public liability and property damage, issued by some insurance or bonding company, or insurance carrier authorized to do business in this Commonwealth of Kentucky, which policy or bond shall be approved by the Commissioner of Motor Transportation and shall be for not less than Ten Thousand ($10,000.00) Dollars for public liability and not less than Five Thousand ($5,000.00) Dollars for property damage. In pulling or towing such motor vehicles, at least two (2) safety chains shall be used in addition to tow-bars and all sets shall be not less than five hundred (500) feet apart and no person shall operate such vehicle in excess of thirty-five (35) miles per hour. Any person violating the provisions of this section shall be guilty of a misdemeanor. The provisions of this Act shall not apply where such vehicle is being towed as a temporary movement for the purpose for making repairs, or for the purpose of pulling or towing such vehicle from one

point to another point for the purpose of making repairs, or on repossessed cars being towed by an agent or employee of any person or bona fide finance company in this Commonwealth of Kentucky where such towing is incidental to the repossession of such vehicle.

By Mr. Lamkin.

H. B. 250. An Act to amend Section 186 of the Constitution of the Commonwealth of Kentucky relating to the distribution and use of the public school fund of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrence of three-fifths of all the members elected to each House of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals, Section 186 of the Constitution of the Commonwealth of Kentucky be, and the same is, amended and revised, so that when amended and revised it shall read as follows:

"All funds accruing to the school fund shall be used for the maintenance of the public schools of the Commonwealth, and for no other purpose, and the General Assembly shall by general law prescribe the manner of the distribution and use of the public school fund for public school purposes. Provided that each school district in the Commonwealth shall receive on a census pupil basis at least ninety per cent of any fund accruing to the school fund. The remainder of any fund accruing to the school fund may be distributed upon other than a census pupil basis."

§ 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at

the next general election (1941) for members of the House of Representatives as provided for under Section 256 of the Constitution of Kentucky, and under Section 1459 of Carroll's 1936 Edition of Kentucky Statutes.

By Mr. White.

H. B. 251. An Act relating to Unemployment Compensation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, and 16 of Chapter 50, Acts of the 1938 Regular Session, now codified as 4748g-3, 4748g-4, 4748g-5, 4748g-6, 4748g-7, 4748g-8, 4748g-9, 4748g-10, 4748g-11, 4748g-13, 4748g-14, 4748g-15, and 4748g-16, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement, be and the same hereby are amended so that when amended said section shall read as follows:

4748g-3—Definitions. As used in this Act, unless the context clearly requires otherwise:

(a) "Commission" means the Unemployment Compensation Commission created pursuant to subsection (a) of Section 4 of this Act. Be it provided, however, that wherever the term Commission is used to denote the authority required under this Act to perform administrative or ministerial functions, it shall be construed to mean the Executive Director of the Unemployment Commission who sits ex officio as the chairman of the Commission, instead of the Commission composed of three members.

The administrative or ministerial functions shall be construed to include the routine of operating and managing the activities incident to the handling of records, reports, files, correspondence, the employment of personnel and the management of same, the conduct of negotiations with em-

ployers, workers, and co-operation with the Social Security Board authorized hereunder and all such functions of a similar nature, but administrative or ministerial functions shall not be construed to include the adjudication of any disputed claims or appeals or any similar matters of a quasi-judicial nature nor the adoption, promulgation, amendment, or rescission of general or special rules or regulations of general application, except that as to regulations the Executive Director may prescribe the same where the exigencies of the situation in his judgment require their immediate prescription.

(b) "Fund" means the Unemployment Insurance Fund established by this Act, to which all contributions required, and from which all benefits provided under this Act, shall be paid.

(c) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

(d) "Employment Office" means a free public employment office, or branch thereof, operated by this State, or, where the context allows, by any state or maintained as a part of the state-controlled system of public employment offices of any state.

(e) "Contributions" means the money payments, exclusive of interest and penalties, to the Unemployment Insurance Fund required by this Act and by any previous Unemployment Compensation Act of this state.

(f) "Benefits" means the money payments payable to a worker under this Act and under any previous Unemployment Compensation Act of this State with respect to his unemployment.

(g) "Wages."

(1) After December 31, 1939, the term wages shall except as provided in paragraphs 2, 3, 4, 5, 6, and 7 of this subsection, mean all remuneration for services, including commissions, bonuses, and the cash value of all remuneration in

any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with rules prescribed by the Commission.

(2) Amounts paid to traveling salesmen or other workers as allowance or reimbursment for traveling or other expenses, incurred on the business of the employing unit, shall be deemed to constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the worker to his employer.

(3) Gratuities and tips customarily received by a worker in the course of his employment from persons other than his employing unit shall not be deemed wages.

(4) The term wages shall not include the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employing unit which makes provision for its workers generally or for a class or classes of its workers (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment), on account of

(A) retirement;

(B) sickness or accident diability;

(C) medical and hospitalization expenses in connection with accident or sickness disability;

(D) death, provided the worker;

(i) has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employing unit, and

(ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employing unit.

(5) The term wages shall not include the amount of any payment made by an employing unit (without deduction from the remuneration of the worker):

(A) of the tax imposed under the Federal Insurance Contributions Act; or

(B) of any contributions required of a worker under this Act.

(6) The term wages shall not include any dismissal payments which an emmploying unit is not legally required to make.

(7) The term wages shall not, for the purposes of Section 7 of this Act, include that part of remuneration which, after wages equal to Three Thousand Dollars ($3,000) have been paid to a worker by a subject employer with respect to covered employment during any calendar year, is paid to such worker by such subject employer with respect to covered employment during such calendar year.

(h) "Reserve account" means a separate reserve account maintained by the Commission in the fund under Section 15 of this Act. No amount shall be considered to be considered to be in any reserve account on any date which has not been actually received by the Commission by that date, and no benefit amount shall be considered to be deducted from the reserve account by any date for which a check has not been written and sent by that date.

(i) After December 31, 1939, the term "annual payroll" shall mean the total amount of wages paid by a subject employer during a twelve-consecutive-month period for covered employment.

(j) "Covered Employment."

(1) After December 31, 1939, the term covered employment, subject to the other provisions of this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied in which the relationship of the individual

performing such service and the employing unit for which such services are rendered is, as to those services, the legal relationship of employer and employee.

(2) The term covered employment shall include a worker's entire service, performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any State, but some of the service is performed in this State, and;

(i) The base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or

(ii) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the worker's residence is in this State.

(3) Services not covered under paragraph (1) or (2) of this subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, shall be deemed to be covered employment if the worker performing such services is a resident of this State and if the Commission approves the election of the employing unit for which such services are performed that the entire service of such worker shall be deemed to be covered employment.

(4) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the worker's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (c) of Section 6 of this Act, the term covered employment shall not include;

(A) Agricultural labor;

(B) Domestic service in a private home;

(C) Service performed in the employ of this State, or any political subdivision thereof or of any of its municipalities;

(D) Service performed in the employ of any other state or of any political subdivision thereof, or of the United States Government, and services performed in the employ of a corporation or agency created under an Act of Congress and engaged in the performance of a governmental function and the employees of which are compensated out of funds appropriated by Congress;

(E) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in subsection (e) of Section 4 of this Act for general rules, to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act.

(F) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(G) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his father or mother;

(H) Service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(I) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this State; and service performed as an interne in the employ of a hospital by a worker who has completed a four years' course in a medical school chartered or approved pursuant to the laws of this State;

(J) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(K) Service performed by a worker under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(L) Service performed by a full time student who is regularly attending classes at a school, college or university.

(k) "Employing unit" means any individual or type of organization, including any partnership, association, society, trust, estate, joint-stock company, corporation, insurance company, whether any of these are domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, or this State or any department, political subdivision or municipality there-

of, which has or subsequent to January 1, 1936, had one or more workers performing services for it within this State, or one or more workers performing services for it in covered employment in any state.

All workers performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this Act.

(l) "Subject employer" means:

(1) Any employing unit which, in each of three calendar quarters in the preceding calendar year, had in covered employment four or more workers (whether or not the same workers), to as many as four of whom at least fifty dollars in wages was payable to each with respect to such covered employment in each such quarter.

(2) Any employing unit which for some portion of a day (but not necessarily simultaneously) in each of twenty different weeks whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in covered employment eight or more workers (irrespective of whether the same workers are or were employed in each such day).

(3) Any employing unit which succeeds to the organization, trade or business of another employing unit which at the time of such succession is a subject employer; and any employing unit which succeeds to the organization, trade, or business of any previously separate portion of another employing unit, which portion, if treated as a separate employing unit, would be, at the time of the succession, a subject employer under paragraphs (1) or (2) of this subsection.

(4) Any employing unit which succeeds to any of the assets of a subject employer's business by any means whatever, otherwise than in the ordinary course of trade, shall be deemed a subject employer hereunder if the Commission finds that:

(A) The transferee has continued or resumed the business of the transferor, either in the same establishment or elsewhere; and

(B) The transferee has employed substantially the same workers as those the transferor had employed in connection with the assets acquired; and

(C) The transferee has acquired a previously separate portion of the transferor's assets, which portion, if treated as a separate employing unit, would be, at the time of the succession, a subject employer under paragraph (1) or (2) of this subsection.

(5) Any other employing unit which has elected to become subject to this Act pursuant to subsection (c) of Section 6 of this Act.

(6) Any employing unit which, having become a subject employer under paragraphs (1) to (5) of this subsection, inclusive, has not ceased to be a subject employer under Section 6 of this Act.

(m) Calendar period shall be construed as follows, except insofar as the Commission may by regulation prescribe the equivalent thereof to meet particular conditions:

(1) "Calendar year" means a year beginning on January 1;

(2) "Calendar quarter" means three consecutive months beginning on January 1, April 1, July 1, or October 1.

(n) "Week" means such period of seven consecutive calendar days as the Commission may by regulation prescribe.

(o) The term "period of unemployment" means any period of fourteen consecutive days, as prescribed by Commission regulation, during which the Commission finds that:

(1) the worker earned less than the benefit rate determined for him in accordance with the provisions of subsection (c) or (f) of Section 10 of this Act, and

(2) less than fifty (50) hours of suitable work were available to him; provided that for the purposes of this subsection any work performed by him shall be included in the

computation of the number of hours of suitable work available to him.

(p) "Base Year." On and after March 11, 1940, the base year for any worker who files an initial claim for benefits between April 1 and September 30 (both dates inclusive) of any year shall be the preceding calendar year; the base year for any worker who files an initial claim for benefits between October 1 and the next following March 31 (both dates inclusive) shall be the twelve-consecutive-month-period ending on the preceding June 30.

(q) "Benefit Period." The term benefit period for any worker means the period of time beginning with the date as of which he first files a valid claim for benefits and ending one full year later, and thereafter, the period of time begining with the date as of which he next files a valid claim for benefits after the termination of the last preceding benefit period or benefit year and ending one full year later, except that any claim filed as of February 29 of any year shall be construed to have been filed as of February 28 of such year. As used in this subsection the term "valid claim" means any initial claim for benefits filed on or after March 11, 1940, which is made in accordance with subsection (a) of Section 11 of this Act if the worker has satisfied the conditions required under paragraph (5) of subsection (a) of Section 9 of this Act.

(r) The term "base year wages" means the wages paid to a worker during his base year by subject employers for covered employment, except that the term base year wages shall not include that portion of the worker's wage credits which have been exhausted in accordance with the provisions of subsection (g) of Section 10 of this Act. The Commission may, with respect to this subsection, consider wages paid to mean wages payable in order to prevent inequities in particular cases.

(s) The term "base period" means the period beginning with the first day of the nine completed calendar quarters immediately preceding the first day of the worker's benefit

year, and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable; provided, however, that no base period shall extend beyond September 30, 1939.

(t) "Benefit year" with respect to any worker means the fifty-two consecutive week period, established prior to April 1, 1940, beginning with the first day of the week or period of unemployment with respect to which benefits are first payable to him, and thereafter, the fifty-two consecutive week period beginning with the first day of the first week or period of unemployment with respect to which benefits are next payable to him after the termination of his last preceding benefit year, provided that no benefit year shall be established for any worker after March 31, 1940.

(u) The "weekly benefit amount" of a worker for whom there is established a benefit year shall be fifty per cent (50%) of his full-time weekly wage, computed to the next highest multiple of ten cents but not more than Fifteen Dollars nor less than Four Dollars per week. As used in this subsection the term "full-time weekly wage" of any worker shall be deemed to be one-thirteenth of his total wages for covered employment by subject employers during that calendar quarter in which such total wages were second highest during the first eight of the last nine completed calendar quarters immediately preceding the date with respect to which a worker's full-time weekly wage is determined, exclusive of any calendar quarter which occurs prior to January 1, 1937. The full-time weekly wage of a worker may be determined and redetermined at such reasonable time as the Commission may find necessary to administer this Act and may by regulation prescribe.

(v) "Suitable Work." In determining for any purpose under this Act whether or not any work is suitable for a worker the Commission shall consider, among other pertinent conditions, the degree of risk involved to his health, safety and morals; his physical fitness and prior training; his

experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation; and the distance of the available work from his residence. For the purpose of this Act, no work shall be deemed suitable and neither waiting period credit nor benefits shall be denied under this Act to any otherwise eligible worker for refusing to accept new work or new conditions of work under one or more of the following:

(1) if the position offered is vacant due directly to a strike, lock-out or other labor dispute;

(2) if the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;

(3) if, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) if the acceptance of such work would be prejudical to the continuance of an established employer-employee relationship to which the worker is a party.

4748-g4—Administrative Organization.

(a) Unemployment Compensation Commission. There is hereby created in the Department of Industrial Relations a Commission composed of and administered by an Executive Director and two Associate Directors, which shall be known as the Unemployment Compensation Commission. The Executive Director of the Unemployment Compensation Commission and the Associate Directors shall be appointed by the Governor; the Executive Director shall be appointed as a disinterested representative of the State and the public, and shall be ex offico chariman of the Commisison; one Associate Director shall be appointed as a representative of labor, and one Associate Director shall be appointed as a representative of employers. These Directors shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their respective offices and shall serve at the pleasure of the Governor. They shall be citizens of the

Commonwealth of Kentucky and not less than thirty (30) years of age. The Directors first appointed under this Act shall serve for a term of four (4) years. Their successors shall be appointed to serve for terms expiring as follows: The Director representing the employers shall be appointed for a two (2) year term. The Director representing the employees shall be appointed for a three (3) year term. The Executive Director shall be appointed for a four (4) year term. Thereafter all appointments shall be made for a term of four (4) years. Every member so appointed shall serve until his successor is appointed and qualified and any appointment to a vacancy shall be for the unexpired term in question. The Executive Director of the Unemployment Compensation Commission shall not during his term of office, engage in any other business, vocation, or employment.

(b) Quorum. The Chairman and one other member of the Commission shall constitute a quorum.

(c) Salaries. Because of increased and added responsibilities devolving upon the Commissioner of Industrial Relations by virtue of the enactment of this measure, the salary of the Commissioner is hereby authorized to be increased from Four Thousand Dollars per annum, as previously provided, to a sum not exceeding Five Thousand Dollars per annum to be fixed by the Governor. The Executive Director of the Unemployment Compensation Commission shall be paid from the Unemployment Compensation Administration Fund a fixed salary at a rate to be fixed by the Governor and the Social Security Board, not to exceed Five Thousand Dollars per annum, plus necessary expenses, and shall devote his full time to the duties of his office. Each Associate Director representing labor or employers shall be paid from the Unemployment Compensation Administration Fund fees at the rate of Twenty Dollars each per day, plus necessary expenses, while engaged in the discharge of his official duties, not exceeding total fees of Two Hundred and Fifty Dollars per month during the year 1938 nor Four Hun-

dred Dollars per month during the year 1939 and any year thereafter.

(d) Duties and Powers of the Commission and the Executive Director. It shall be the duty of the Commission to administer this Act; except that the Executive Director shall have power to employ such persons, make such expenditures, require such reports, make such investigations, and to take such other administrative action as he deems necessary for the proper administration of this Act. The Commission shall the power and authority to adopt, amend, or rescind such rules and regulations as it deems necessary or suitable for the proper administration of this Act. The Commission may elect coverage for its workers under the provisions of subsection (c) of Section 6 of this Act and may elect coverage for its workers under the Workmen's Compensation Law of this State. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Such report shall include a balance sheet of the monies in the fund in which shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund it shall promptly so inform the Governor and make recommendations with respect thereto.

(e) Regulations and General and Special Rules. General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after approval by the Commissioner of Industrial Relations and filing with the Secretary of State and publication in the manner which the Commissioner shall prescribe. Special rules shall become effective ten days after notification of or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the maner and at the time prescribed by the Commision, except as to regulations that the Executive Director may prescribe as provided in subsection (a) of Section 3 of this Act.

(f) Publication. The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's regulations and general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable, and shall furnish the same to any person upon application therefor.

(g) Personnel. Subject to subsection (d) of this Section, and to other provisions of this Act, the Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, examiners, referees and other persons as may be necessary in the performance of its duties under this Act. All positions shall be filled by persons selected and appointed on a non-partisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may, by written orders, delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and

may in its discretion bond any person handling moneys or signing checks hereunder.

The Commission is authorized to select qualified persons to conduct a study of Civil Service for the appointment of a personnel of the Unemployment Compensation Commission. From such study the Commission may classify the positions, describe the standards and qualifications for same, hold examination, either oral or written as it may prescribe and my by general rule adopt a Civil Service with the approval of the Governor by proclamation.

(h) Advisory Councils. The Commission shall appoint a State Advisory Council and may appoint local Advisory Councils, composed in each case of equal numbers of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the Commission may designate. Such councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such Advisory Councils shall serve without compensation, but they shall be reimbursed for any necessary expenses.

(i) Employment Stabilization. The Unemployment Compensation Commission with the advice and aid of the Advisory Councils, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation by municipalities, counties, school districts and the State, or reserves for public works to be used in times of business depression and unemployment; and to promote the employment of unemployed workers throughout the State in every other way that may be feasible and to these ends to carry on and publish the results of investigations and research studies.

(j) Records and Reports. Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as may be deemed necessary by the Commission for the proper administration of this Act. Such records shall be open for inspection and subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require any employing unit to furnish to it at its central office from time to time information concerning the total amount of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part-time entitled to benefits, and other related matters including hours worked, which the Commission deems necessary to the effective administration of this Act. All letters, reports, communications, and other matters, writen or oral, from employer or worker, to the Commission or any of its agents, representatives, or employees, or to any board or official functioning under this Act, which shall have been written, sent, delivered, or made in connection with the requirements and administration of this Act shall be aboslutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, provided that no employer or employee or their representative or representatives testifying before the Commission or any duly authorized representative thereof, shall be exempt from prosecution or punishment for any perjury committed by him in so testifying. Information thus obtained shall not be published or be open for public inspection (other than to public employees in the performance of their public duties) in any manner revealing or indicating the employing unit's identity, but any claimant at a hearing before the Commission or its duly authorized representative shall be supplied with information from such records to the extent necessary for the proper

presentation of his claim. Any employee of the Unemployment Compensation Commission or any other State Department who violates any provision of this Section shall be deemed guilty of a misdemeanor and upon conviction be fined not less than Twenty Dollars nor more than Two Hundred Dollars, or imprisoned for not longer than ninety days, or both.

(k) Oaths and Witnesses—Issuance of Subpoenas. In the discharge of the duties imposed by this Act members of the Commission, or any duly authorized representative of the Commission, shall have power to administer oaths and affirmations, take depositions, certify official acts, and issue subponeas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary and relevant as evidence in connection with a disputed claim or the administration of this Act.

(l) Attendance of Witnesses—Production of Papers. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record. Witnesses subpoenaed in the foregoing manner shall be allowed witnesses' fees according to the rates prescribed in Carroll's Kentucky Statutes for each day their attendance is actually required at such hearing. Any person who shall be served with a subpoena to appear and testify, or to produce books, papers, accounts or documents, in the course of an inquiry, investigation or hearing conducted under any of the provisions of this Act, and who refuses or neglects to appear or to testify, or to produce books, papers, accounts and documents relevant to said inquiry, investigation or hearing, as commanded in such subpoena, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Ten Dollars nor more than One Hundred Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment.

(m) Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the Commission or a member thereof or its duly authorized representative on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person, firm, or corporation shall be prosecuted or subjected to any suit, penalty, or forfeiture for, or on acount of, any transaction, matter, or thing concerning which it or its agents or worker is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such witness so testifying shall not exempt from prosecution and punishment for perjury committed in so testifying.

(n) State-Federal Co-operation. In the administration of this Act, the Commission shall co-operate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended, shall make such reports in such form and containing such information as the Social Security Board may from time to time require, shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports, and shall comply with the provisions of Title III of the Social Security Act relating to the expenditure of such funds as may be alloted and paid to this State for the purpose of assisting in the administration of this Act. Upon request therefor the Commission shall furnish to any agency of this or any other state or the United States charged with the administration of public works or assistance through public employment or otherwise the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

The Commission may make its records relating to the administration of this Act available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such Board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes.

The Commission may afford reasonable cooperation with every agency of any state or of the United States charged with the responsibility of administering an Unemployment Insurance Law.

(o). Public Employment Offices. The Unemployment Compensation Commission shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "An Act to provide for the establishment of a national employment service and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113, U. S. Code, Title 29, Sections 49 (c), as amended, and known as the Wagner-Peyser Act. All duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance, and operation of free employment offices shall be vested in the Unemployment Compensation Commission. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Unemployment Compensation Commission is hereby designated and constituted the agency of this State for the purpose of said Wagner-Peyser Act.

(p) Study of Intermittent Industry. The Commission shall appoint a committe of five members, two of whom shall be representatives of employers and two representatives of labor, and one impartial person, who shall be chairman, to make a study of the problems arising in those industries and occupations in which, because of the non-seasonal irregular

nature thereof, it is customary to operate only during irregular periods of variable duration, and upon which the incidence of unemployment compensation is most heavy. It shall be the duty of this committee, after study of those industries whose employment is intermittent in nature, to make recommendations to the Commission on or before November 1, 1941, with respect to the application of unemployment compensation thereto. Such report shall be transmitted by the Commission with its recommendations to the Governor. The cost of this study shall be considered an expense of the administration of this Act.

(q) Destruction of Records. The Commission may, in its discretion, destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the Commission and are deemed no longer necessary to the proper administration of this Act. Wage Records of the individual worker or transcripts thereof may be destroyed or disposed of two years after the expiration of the period covered by such wage records or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the Commission and such order shall be spread on the minutes of the Commission. Any moneys received from the disposition of such records shall be deposited to the credit of the Unemployment Compensation Administration Fund.

4748-g5—Unemployment Compensation Administration Fund. There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Unemployment Compensation Commission. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever, provided that the payment of contributions as a subject employer in the event of elected coverage under this Act and the payment of premiums or

other costs incurred by reason of elected coverage under the Workmen's Compensation Law of this State shall be deemed a cost of proper administration. The fund shall consist of all moneys appropriated by this State and all moneys received from the United States of America, or any agency thereof including the Social Security Board, the Railroad Retirement Board as compensation for services or facilities supplied to said Board or from any other source, for the aforesaid purpose. For the purpose of establishing and maintaining free employment offices, the Commission is authorized to enter into agreements with the Railroad Retirement Board or any other agency charged with the administration of an unemployment insurance law, with any political subdivisions of this State or any of its municipalities, or with any private non-profit organizations. As a party to any such agreement, the Commission may accept moneys, services, or quarters as a contribution to the Unemployment Compensation Administion Fund. All moneys in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balance in this fund shall not lapse at any time but shall be continuously available to the Unemployment Compensation Commission for expenditures consistent with this Act.

4748-g6—Period, Election and Termination of Employer's Coverage.

(a) Duration of Liability. Any employing unit which is or becomes subject to this Act within any calendar year shall be deemed to be a subject employer during the whole of such calendar year, except as specifically provided in subsections (c) and (d) of this section or elsewhere in this Act.

(b) Termination of Liability. Except as otherwise provided in sub-section (c) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the Commis-

sion, prior to the first day of March of such year, a written application for termination or coverage, and the Commission finds that the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under the provisions of paragraphs (1), (2), (3), (4) and (6) of subsection (1) of Section 3 of this Act.

(c) Election of Liability.

(1) Any employing unit not otherwise subject to this Act, which files with the Commission its written election to become a subject employer for not less than two calendar years, shall with the written approval of such election by the Commission, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the first day of March of such year, it has filed with the Commission a written notice to that effect.

(2) Any employing unit for which services that do not constitute covered employment as defined in this Act are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute covered employment by a subject employer for all the purposes of this Act for not less than two calendar years. Upon written approval of such election by the Commission, such services shall be deemed to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be deemed covered employment subject hereto as of January 1 of a calendar year subsequent to such two calendar years, only if prior to the first day of March of such year such employing unit has filed with the Commission a written notice to that effect .

(d) An employing unit which becomes a subject employer under paragraphs 3 or 4 of subsection (1) of Section 3 of this Act, shall become subject as of the date of acquisition.
4748-g7—Contributions.

(a) Payments.

(1) After December 31, 1939, contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this Act. Such contributions shall be based upon wages paid during such calendar year for covered employment which occurs after December 31, 1939. Such contributions shall become due and be paid at the offices of the Commission in Frankfort by each subject employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted in whole or in part from the wages of workers in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Rates of Contributions. Each subject employer shall pay contributions equal to the following percentages of wages paid by him with respect to covered employment:

(1) Two and seven-tenths (2.7) per cent for the calendar year 1940; and

(2) On and after January 1, 1941, the percentage determined pursuant to subsection (c) of this Section.

(c) Experience Rating.

(1) Each subject employer's contribution rate shall be two and seven-tenths (2.7) per cent except as otherwise provided in this subsection.

(2) The rate applicable to each subject employer shall be two and seven-tenths (2.7) per cent until the end of the third year in which contributions have been paid into his reserve account, and no subject employer's rate shall be less than two and seven-tenths (2.7) per cent unless funds were

available throughout the preceding year, from which benefits could have been payable from his account, to any worker in his employ who became unemployed and eligible.

(3) For the calendar year 1941 each subject employer's rate shall, except as provided in subsection (f) of Section 15 of this Act, be determined by the Commission upon the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against such account. If, as of the computation date, the total of all contributions paid and credited to his account for all past years in accordance with this Act equals or exceeds the total benefits charged against such account for all such years by at least five times the largest annual total amount of benefits charged against such account within any one of the three calendar years last preceding January 1, 1941, his contribution rate shall:

(A) be one and eight-tenths (1.8) per cent if such excess equals or exceeds ten (10) per cent but is less than fifteen (15) per cent of his total wages payable for covered employment during the calendar year 1940;

(B) be zero if such excess equals or exceeds fifteen (15) per cent of his total wages payable for covered employment during the calendar year 1940.

(4) For the calendar year 1942 and for each calendar year thereafter each subject employer's rate shall, except as provided in subsection (f) of Section 15 of this Act, be determined by the Commission upon the basis of his actual experience in the payment of contributions paid and credited to his reserve account and with respect to benefits charged against such account. If, as of the computation date, the balance of such account equals or exceeds five times the largest amount of benefits charged against such account within any one of the three years last preceding the computation date, his contribution rate shall:

(A) be one and eight-tenths (1.8) per cent if such balance equals or exceeds three and one-third (3 1/3) per cent

but is less than five (5) per cent of that part of the payroll or payrolls by which contributions to such account were measured for the thirty-six months last preceding the computation date.

(B) be zero if such balance equals or exceeds five (5) per cent of that part of the payroll or payrolls by which contributions to such account were measured for the thirty-six months last preceding the computation date.

(5) If, on December 31, 1940, the total of all contributions paid and credited to a subject employer's account for all past periods in accordance with the provisions of this Act fails to exceed the total benefits charged against such account during the same period by three (3) per cent of his total wages payable for covered employment during the calendar year 1940, the contribution rate for such subject employer shall be three and seven-tenths (3.7) per cent for the calendar year 1941.

(6) For the calendar year 1942 and for each calendar year thereafter each subject employer's rate shall be three and seven-tenths (3.7) per cent if, as of the computation date, the balance of such account is less than one (1) per cent of that part of the payroll or payrolls by which contributions to such account were measured for the thirty-six months last preceding the computation date.

(7) The computation date for rates applicable to the calendar year 1941 shall be December 31, 1940. The Commission may by regulation prescribe the computation date for determining rates applicable to the calendar year beginning on January 1, 1942, or any January 1 thereafter. As used herein the term "computation date" means the date, occurring at least once in each calendar year and within twenty-seven weeks prior to the effective date of new rates of contributions, as of which such rates are computed.

(8) The term "balance" as used in this Section and in Section 15 of this Act means the total of all contributions paid and credited to a reserve account plus the total of all benefits

charged, in accordance with the provisions of paragraph (2) of subsection (e) of Section 15 of this Act, against the pooled account because of the exhaustion, as of a computation date, of such reserve account less the total of all benefits charged against such reserve account.

(d) Contributions by Workers.

(1) Each worker shall contribute to the pooled account one (1) per cent of his wages paid by a subject employer with respect to his covered employment which occurs after December 31, 1939, and after such subject employer has satisfied the conditions set forth in subsection (1) of Section 3 with respect to becoming a subject employer; provided that in no case shall the rate of contribution required of any worker exceed fifty (50) per cent of the total rate of contribution required from his subject employer with respect to such wages for the same period. Each subject employer shall be liable for his workers' contributions and may, notwithstanding any provisions of the law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, and may show such deduction on his payroll records, provided he furnishes such evidence thereof to his workers as the Commission may prescribe. Each subject employer shall transmit all such contributions to the Commisson in such manner and at such times as the Commission may prescribe. If any subject employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeding payroll period, he alone shall thereafter be liable for such contributions, but for the purpose of Section 8 of this Act, such contributions shall be treated as a subject employer's contributions required from him. As used in this Act, except when the context clearly requires otherwise, the term contributions shall include the contributions of workers pursuant to this Section.

(2) Every employing unit which has elected to become subject to this Act or to cease to be subject to this Act, pursuant to the provisions of Section 6, shall post and maintain printed notices of such election on its premises, of such design, in such numbers and at such places as the Commission may determine to be necessary to give notice thereof to its workers.

(3) Contributions by workers, payable to the fund as herein provided, shall be exempt from garnishment, assignment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions from Employers Not Subject to the Federal Unemployment Tax Act. After December 31, 1939, each employing unit which is or becomes a subject employer under any provisions of this Act and which is not required to pay the tax imposed by Section 1600 of the Federal Unemployment Tax Act shall pay an equalizing contribution to be allocated to administration purposes amounting to three-tenths (.3) per cent of the wages paid by it with respect to covered employment. The contributions required under this subsection shall be credited to the Unemployment Compensation Administration Fund. The State Treasurer shall maintain a separate record of all moneys received for the Unemployment Compensation Administration Fund under the provisions of this subsection. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said moneys be available to finance expenditures for the administration of this Act. But nothing in this Act shall prevent said moneys from being used as a revolving fund, to cover expenditures (necessary and proper under this Act) for which federal funds have been duly requested but not received, subject to the charging of such expenditures against such funds when received. The Commission may also, by order duly entered in its minutes, authorize to be charged against such moneys

any expenditures which it deems proper and desirable for the administration of this Act, provided the Commission in such order finds that no other funds are available or can properly be used to finance such expenditures.

4748-g8—Collection of Contributions.

(a) Penalties on Past Due Contributions. Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall be subject to a penalty at the rate of one (1) per cent per month or fraction thereof from and after such date until payment is received by the Commission. Penalties collected pursuant to this subsection shall be paid into the fund's pooled account.

(b) Collection. If, after due notice, any subject employer defaults in any payment of contributions or penalties thereon, the amount due shall be collected by civil action in the name of the State, and the subject employer adjudged in default shall pay the cost of such action. Civil actions brought under this section to collect contributions or penalties thereon from a subject employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) Lien Created upon Assets of Employer—Limitation. A lien on a parity with tax liens is hereby created in favor of the Commission upon all property both personal and real or rights thereto owned by any subject employer and used by him in connection with his trade, occupation, profession or business, from whom contributions, interest or penalties are or may hereafter become due. Such lien shall be for a sum equal to the amount at any time due from each subject employer to the Commission on account of contributions, interest and penalties thereon. Such lien shall commence from the time of such contributions, interest or penalties become, or shall hereafter become, due. No action to enforce

a lien under this section shall be brought after two years from the date of filing of such lien.

(1) Innocent Purchaser—Recording. Such lien shall not be valid against any innocent purchaser for value of stock in trade of any subject employer in the usual course of such subject employer's business. Such lien shall be invalid against any innocent purchaser of any of the other assets to which such lien has attached, unless notice thereof has been filed by the Commission in the office of the County Court Clerk of the county within which the property subject to the lien is situated.

(2) Tax Lien File—Filing of Notice. When a notice of any such lien is presented to the clerk of any county court for filing, he shall file it in a "Miscellaneous Tax Lien File." The entry shall show the name, and last known business address of the subject employer named in the notice, the serial number of the notice, the date and hour of filing, and the amount of contribution, interest and penalty thereon due and unpaid and a description of said property so affected. When a certificate of complete or partial release of such lien issued by the Commission is presented for filing in the office of the County Court Clerk where a notice of lien was filed, the clerk shall permanently attach the certificate of release and the date thereof to the notice of lien.

(3) Partial Release. The Commission shall also have the power to issue a certificate of partial release of any part of the property subject to the lien if it shall find that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(4) Release of Lien upon Furnishing of Bond. Where the amount of or the liability for the payment of any contribution, interest or penalty is contested by any employing unit against whose property a lien has attached, and the deter-

mination of the Commission with reference to such contribution has not become final, the Commission may issue a certificate of release of lien upon the furnishing of bond satisfactory to the Commission by such employing unit in the amount of one hundred and twenty-five (125) per cent of the sum of such contribution, interest and penalty, for which lien is claimed, with good and sufficient surety to be approved by the Commission conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the Commission immediately upon the decision of the Commission in respect to the liability for such contribution, interest and penalty becoming final.

(5) Enforcement of Lien. In addition and as alternative to any other remedy provided by this Act, or by the laws of the Commonwealth of Kentucky, the Commission may enforce the lien herein created by petition in the name of the Commonwealth of Kentucky to the Circuit Court of Franklin County, provided that the ministerial acts necessary to enforce said lien by the sale of the liened property or any part thereof shall be performed by the appropriate officers of the Circuit Court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of tax liens under Chapter 108 of Carroll's Kentucky Statutes.

(6) Liability of Certain Other Persons for Payment of Contributions Incurred by Delinquent Subject Employers. Every assignee, receiver, trustee in bankruptcy, liquidator, administrator, executor, sheriff, bailiff or any other person who shall sell substantially all of: (1) the business, (2) the stock of goods, (3) the furniture or fixtures, (4), the machinery and equipment, (5) the good-will, or other personal or real property as well as mixed, tangible and intangible property of any subject employer against whom a lien provided for in subsection (c) of this Section has been filed in the

county shall, before seven (7) days prior to the date of such sale, notify the Commission of the name and address of the person conducting such sale, the date, the place and the terms of such sale and a description of the property to be sold. Any assignee, receiver, trustee in bankruptcy, liquidator, administrator, executor, sheriff, bailiff or any other person who shall fail to observe the requirements of this section shall be personally responsible for all loss in contributions, penalties and interest attributable to such failure to notify the Commission as herein provided. Any subject employer who shall, outside the usual course of his business, sell substantially all of any one of the classes of assets hereinabove enumerated or shall quit business, shall within ten (10) days after such sale file such reports as the Commission shall prescribe and pay the contributions, interest and penalties required by this Act with respect to wages payable for covered employment up to the date of said sale. The purchaser shall withhold sufficient of the purchase money to cover the amount of all contributions, interest and penalties due and unpaid until such time as the seller shall produce a receipt from the Commission showing that the contributions, interest and penalties have been paid or a certificate that no contributions, interest or penalties are due. If such purchaser shall fail to withhold purchase money as above provided and the contributions, interest or penalties, shall not be paid within the ten (10) days specified above, such purchaser shall be personally liable for the payment of contributions, interest and penalties accrued and unpaid on account of the operation of the business by the former owner.

(d) Refunds. If, not later than two years after the date on which any contributions or penalties were paid, an employing unit which has paid such contributions or penalties thereon shall make application for an adjustment thereof in connection with subsequent contribution payment, or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or penal-

ties or any portion thereof were erroneously collected, the Commission shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by it or if such adjustment cannot be made, the Commission shall refund said amount, without interest, from the fund. For like cause and within the same period adjustment or refund may be so made on the Commission's own initiative.

(e) Special Refund. If, by reason of a worker rendering service for more than one subject employer during any calendar year after the calendar year 1939, the wages of the worker with respect to covered employment during such year exceed Three Thousand Dollars ($3,000.00), any amount of contributions with respect to such wages, imposed by subsection (d) of Section 7 of this Act, deducted from such wages and paid to the Commission, which exceeds the contributions with respect to the first Three Thousand Dollars ($3,000) of such wages paid shall, notwithstanding the provisions of subsection (d) of Section 7 of this Act, be deemed to have been erroneously collected and shall be refunded to the worker in the manner herein provided. No interest shall be allowed or paid with respect to any such refund. Refund under this section may be made in accordance with the provisions applicable in the case of erroneous or illegal collection as provided in subsection (d) of this section except that no such refund shall be made unless:

(1) The worker makes a claim, establishing his right thereto, after the calendar year in which the covered employment was performed with respect to which refund of contributions is claimed, and

(2) Such claim is made within two years after the calendar year in which the wages are paid with respect to which refund of contributions is claimed.

4748-g9—Eligibility for Benefits.

(a) Conditions of Qualification. On and after March 11, 1940, an unemployed worker shall, except as provided in

subsections (b) and (c) of this Section, be eligible for benefits with respect to any period of unemployment only if it has been found by the Commission that:

(1) he has made a claim for benefits in accordance with the provisions of subsection (a) of Section 11 of this Act;

(2) he has registered for work with respect to such period in accordance with regulations prescribed by the Commission;

(3) he is physically and mentally able to work;

(4) he is available for suitable work;

(5) his base year wages are not less than Two Hundred Dollars ($200); except that the conditions of this paragraph shall not apply to any worker until the expiration of the last benefit year for such worker;

(6) he has, except as provided in part (B) of this paragraph, served a waiting period of one period of unemployment within his benefit period. No period of unemployment shall be counted as a waiting period:

(A) unless the worker has satisfied the conditions of paragraphs 1, 2, 3, 4, and 5 of this subsection;

(B) if such period of unemployment began prior to March 11, 1940; except that the conditions of this paragraph shall not apply to any worker until the expiration of the last benefit year established for such worker.

(b) Conditions of Disqualification. Notwithstanding the provisions of subsection (a) of this Section or subsection (a) of Section 10 of this Act, no worker may serve a waiting period or be paid benefits for any period of unemployment with respect to which the Commission finds that:

(1) a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that waiting periods may be served and benefits may be paid unless the employer notifies the Commission in writing within seven days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or

labor dispute. For the purpose of this paragraph a lock-out shall not be deemed to be a strike or bona fide labor dispute and no worker shall be denied credit for a waiting period or be denied benefits by reason of a lock-out:

(2) he has received or is seeking employment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between Kentucky and such other state or the United States; provided, however, that if the appropriate agencies of such state or of the United States finally determine that he is not entitled to such unemployment compensation, this paragraph shall not apply.

(c) Reduction of Benefits and Extension of Waiting Periods.

(1) A worker shall be required to serve an additional waiting period of not less than one nor more than eight periods of unemployment and the maximum amount of benefits payable to him shall be reduced by not less than one nor more than eight times the benefit rate if, according to the circumstances of each case, the Commission finds that:

(A) Subsequent to his most recent work, he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the Commission, or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the Commission;

(B) he has knowingly made a false statement to establish his right to or the amount of his benefits;

(C) he has left his most recent suitable work voluntarily without good cause; or,

(D) he has been discharged for misconduct connected with his most recent work, provided that legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

(2) No worker shall be required to serve additional waiting periods nor shall benefits be reduced under the pro-

visions of parts (C) and (D) of paragraph (1) of this subsection unless the employer, within a reasonable time as prescribed by Commission regulation, notifies the Commission and the worker in writing of the alleged voluntary quitting or the discharge for misconduct.

(3) As used in this subsection, "most recent" work shall be construed as that work which occurred after the first day of the worker's base year and which last preceded the period of unemployment with respect to which benefits are claimed; except that, if the Commission finds that the work last preceding such period of unemployment was intermittent or temporary in nature, most recent work may be construed as that work last preceding such intermittent or temporary work.

4748-g10—Benefits.

(a) On and after March 11, 1940, each unemployed worker shall, except as provided in subsections (b) and (c) of Section 9 of this Act, be paid benefits for periods of unemployment if, with respect to such periods, the conditions of subsection (a) of Section 9 of this Act have been satisfied.

(b) All benefits shall be paid through employment offices, or such other agencies as the Commission may by regulation designate, in accordance with such regulations as the Commission may prescribe.

(c) Benefit Rate. Benefits payable to an eligible worker for periods of unemployment shall, except as provided in subsections (e) and (f) of this Section, be at the benefit rate in Column "C" of Table "A" which appears on the same line with the "Base Year Wages" of such worker as shown in Column "B" of the same table.

(d) Maximum Amount. The maximum amount of benefits payable to any worker within any benefit period shall, except as provided in subsection (g) of this Section, be the amount in Column "D" of Table "A" which appears on the same line with the "Base Year Wages" of such worker as shown in Column "B" of the same table.

TABLE A

Wage Class (A)	Base Year Wages (B)	Benefit Rate (C)	Maximum Amount (D)
0	Less than $ 200.00	$ 0.00	$ 00.00
1	200.00– 219.99	8.00	64.00
2	220.00– 264.99	9.00	72.00
3	265.00– 309.99	10.00	80.00
4	310.00– 359.99	11.00	88.00
5	360.00– 409.99	12.00	96.00
6	410.00– 459.99	13.00	104.00
7	460.00– 509.99	14.00	112.00
8	510.00– 559.99	15.00	120.00
9	560.00– 609.99	16.00	128.00
10	610.00– 664.99	17.00	136.00
11	665.00– 719.99	18.00	144.00
12	720.00– 774.99	19.00	152.00
13	775.00– 834.99	20.00	160.00
14	835.00– 894.99	21.00	168.00
15	895.00– 954.99	22.00	176.00
16	955.00–1,014.99	23.00	184.00
17	1,015.00–1,079.99	24.00	192.00
18	1,080.00–1,149.99	25.00	200.00
19	1,150.00–1,219.99	26.00	208.00
20	1,220.00–1,294.99	27.00	216.00
21	1,295.00–1,374.99	28.00	224.00
22	1,375.00–1,454.99	29.00	232.00
23	1,455.00 or over	30.00	240.00

(e) There shall be deducted from the benefit rate determined for a worker in accordance with the provisions of subsections (c) and (f) of this Section:

(1) Eighty (80) per cent, adjusted to the nearest multiple of one dollar ($1.00), of the amount of wages earned by such worker during the period of unemployment with respect to which he claims benefits;

(2) The amount of remuneration which the worker has received or is receiving with respect to any period of unemployment (adjusted to the nearest multiple of One Dollar) in any of the following forms:

(A) Remuneration in lieu of notice, or any payment by the way of compensation for the loss of wages through an employee pension plan;

(B) Compensation for temporary disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

(C) Old-Age and Survivor's Insurance Benefits under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress.

(f) The weekly benefit amount of any eligible worker for whom there is established a benefit year shall, when multiplied by two and adjusted to the nearest multiple of one dollar, be the benefit rate for such worker until the expiration of such benefit year. The benefit year thus determined shall, except as provided in subsection (e) of this Section, be paid to such worker with respect to any period of unemployment occurring during such benefit year and beginning on and after March 11, 1940.

(g) The Commission shall compute wage credits for each worker by crediting him with the wages earned by him for covered employment from subject employers during each calendar quarter of his base period, or Three Hundred and Ninety Dollars, whichever is the lesser. Benefits paid to any eligible worker during a benefit year shall be charged, in the same chronological order as such wages were earned, against one-sixth of those of his wage credits which have not been previously exhausted hereunder. The maximum total amount of benefits payable to any eligible worker during any benefit year shall not exceed whichever is the lesser of: first, fifteen times his weekly benefit amount; and, second, one-sixth of such worker's uncharged wage credits with respect to his base period.

4748-g11—Claim for Benefits.

(a) Filing. Claims for beenfits shall be made in accordance with such regulations as the Commission may prescribe.

(b) Notice to Workers. Each subject employer shall post and maintain in places readily accessible to his workers, printed statements concerning such regulations or such matters as the Commission may prescribe. Each subject employer shall make available to his workers copies of such printed statements and such materials relating to claims for benefits as the Commission may prescribe. Such printed statements and material shall be supplied by the Commission without cost to the employer or workers.

(c) Notification and Determination.

(1) The Commission acting through its duly authorized representatives shall determine the validity of each claim and, if benefits are allowed, shall notify all interested parties. If benefits are denied the Commission shall notify the claimant. The Commission may, at any time within a claimant's benefit period, make further determinations as may effect the claimant's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The Commission may by regulation prescribe what constitutes a determination as used in this subsection and in paragraph (1) and (2) of subsection(d) of this section.

(2) In any case in which the payment or denial of benefits will be determined by the provisions of paragraph (1) of subsection (b) of Section 9 of this Act, the examiner shall promptly transmit all the evidence with respect to that paragraph to the Commission, which, on the basis of the evidence so submitted and such additional evidence as it may require, shall make a determination with respect thereto or may delegate the same to a specially designated agent to make such determination. Such determination shall be made only after parties thereto have been afforded a reasonable oppor-

tunity for a fair hearing. A notice of the determination shall be furnished to the interested parties.

(d) Appeals.

(1) A party to a determination may file an appeal to a referee as to any matter therein ten days after the receipt of notification of such determination or within ten days after the date such notification was mailed to his last known address; provided that, in cases involving paragraph (1) of subsection (b) of Section 9 of this Act, an appeal may be taken as is set out in subsection (k) of this section.

(2) Payment and Charging of Benefits in the Event of Appeal. If benefits are allowed by a determination but the record of the case indicates that a disqualification or a reduction of benefits under Section 9 of this Act has been alleged, or may exist, benefits shall not be paid prior to the expiration of the period for appeal as provided in paragraph (1) of this subsection. No benefits may be paid during any time that an appeal is pending or prior to the expiration of the period for appeal, except that, if a referee affirms a determination allowing benefits, such benefits shall be paid until or unless the decision of the referee is reversed by the Commission. If benefits are paid pursuant to a decision of the referee which is finally reversed in any subsequent proceedings with respect thereto, no employer's account shall be charged with benefits so paid but such benefits shall be charged against the pooled account.

(3) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the determination. The parties shall be duly notified of such referee's decision, together with the reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (f) of this section.

(e) Referees. The Commission shall appoint one or more impartial referees, selected in accordance with subsec-

tion (g) of Section 4 of this Act, to hear and decide appealed claims.

(f) Commission Review. The Commission may on its own motion affirm, modify, or set aside any decision of a referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The Commission may remove to itself or transfer to another referee the proceedings on any claim pending before a referee. Any proceeding so removed to the Commission shall be heard and determined by the entire Commission composed of three members, except that no member of the Commission shall participate in any case in which he is an interested party, and the Chairman shall act alone in the absence or disqualification of any other member. The Commission shall promptly notify the parties to any proceedings of its finding and decisions.

(g) Procedure. The manner in which appealed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, such hearings to be conducted in a summary manner. A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing upon an appealed claim shall be recorded, but need not be transcribed unless the claim is further appealed. No examiner, referee or member of the Commission shall participate in any hearing in which he is an interested party.

(h) Witness Fees. Witnesses supoenaed pursuant to proceedings under this Section shall be allowed fees in accordance with rates prescribed in Carroll's Kentucky Statutes. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(i) Appeals to Courts. Any decision of the Commission, in the absence of an appeal therefrom as herein pro-

vided, shall become final twenty days after the date thereof; and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission, as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is designated by the Commission for that purpose, or at the request of the Commission by the Attorney General.

(j) Court Review. Within twenty days after the decision of the Commission, any party aggrieved thereby may secure judicial review thereof by filing against the Commission for the review of its decision, a petition in the circuit court of the county in which the claimant was last employed by a subject employer whose reserve account is affected by such claims, in which action any other party to the proceeding before the Commission shall be made a defendant. Such petition shall state fully the grounds upon which review is sought, assign all errors relied on, and shall be verified by the petitioner, who shall furnish copies thereof for each defendant to the Commission, who shall deliver one such copy to each of such defendants. Summons shall issue upon the petition directing the Commission to file answer within fifteen days after service thereof; such summons shall be served upon a member of the Commission, or upon such person as the Commission may designate, and such service shall be deemed complete service upon all members of the Commission. With its answer, the Commission shall certify and file with the Court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein; provided, however, that if consented to by the petitioner and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the record in full. The Commission may also, in its discretion, certify to such Court questions of law involved in any decision

by it. Such actions, and the questions so certified, shall be heard by the Court in a summary manner upon the record certified by the Commission. The Court shall enter judgment affirming, modifying, or setting aside the order and decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, in its discretion, remand the case to the Commission for further proceedings in accordance with the direction of the Court. An appeal may be taken from the decision of the Circuit Court to the Court of Appeals, in the same manner, but not inconsistent with the provisions of this Act, as is provided in equity cases. It shall not be necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the Commission, and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the Commission shall so order.

(k) In all cases of appeals arising under paragraph (1) of subsection (b) of Section 9 of this Act court review may be had as provided in subsection (j) of this section, except that review may be had to the Franklin Circuit Court from the decision of the Commission or the Special Agent without same having been passed upon by a referee as provided in subsection (d) of this section and without Commission review as provided in subsection (f) of this section. The decision of the Special Agent of the Commission herein referred to may be appealable to the Franklin Circuit Court immediately upon the rendering of same. Any claimant aggrieved thereby may, within twenty days after the decision of said Special Agent, or the Commission, secure judicial review of such decision by filing a petition against the Commission for review in the Franklin Circuit Court, in which action any other parties to the proceeding before the Special Agent or the Commission shall be made defend-

ants. Such a claimant who has been denied benefits under paragraph (1) of subsection (b) of Section 9 of this Act may appeal for himself and for and on behalf of all other claimants similarly situated within that establishment or other establishments whose claims were denied by reason of the same alleged labor dispute or strike. An employer may appeal to the Franklin Circuit Court from the decision of the Commission or the Special Agent allowing benefits under paragraph (1) of subsection (b) of Section 9 of this Act and all workers in his establishment may be joined in such appeal.

4748-g13—Reciprocal Arrangements. The Commission may enter into administrative arrangements with the agencies of other states or the Federal Government similarly charged with the administration of unemployment compensation laws, for the purpose of assisting the Commission and such agencies in the payment of benefits under the several laws. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits, in making investigation, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the Commission may consider suitable in effectuating the purpose of these administrative arrangements.

The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in subsection (j) of Section 3 of this Act, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states.

4748-g14—Unemployment Insurance Fund.

(a) Establishment and Control. There is hereby established a special fund to be known as the Unemployment Insurance Fund which shall be administered separate and apart from all public moneys or funds of the State. This fund shall consist of:

(1) All contributions and moneys collected under this Act, together with any penalties thereon collected pursuant to Section 8 of this Act;

(2) All fines and penalties collected pursuant to the provisions of this Act;

(3) Interest earned upon any moneys in the fund;

(4) Any property or securities acquired through the use of moneys belonging to the fund; and

(5) All earnings of such property or securities.

Subject to the provisions of this Act, the Commission is vested hereby with full power, authority, and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

(b) Accounts and Deposits. The State Treasurer shall be ex officio the treasurer and custodian of the fund. He shall administer such fund in accordance with the direction of the Commission and shall pay all vouchers approved by the Department of Finance and draw upon the fund in accordance with such regulations as the Commission shall prescribe. He shall maintain within the fund three separate accounts:

(1) A clearing account;

(2) An unemployment trust fund account; and

(3) A benefit account.

All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer, who shall immediately deposit them in the clearing acccount. Refunds payable pursuant to subsection (d) of Section 8 of

this Act may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the Commission. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of the law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding.

The benefit account shall consist of all moneys requisitioned from the State's account in the Unemployment Trust Fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The State Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the Commission and approved by the Governor, and in a form prescribed by law and approved by the Attorney General. Premiums for the said bond shall be paid from the Unemployment Compensation Administration Fund.

(c) Withdrawals. Moneys shall be requisitioned from the State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission. The Commission, through the State Treasurer acting as its fiscal agent, shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this State's accounts therein, as it deems necessary for the payment of benefits for a reasonable future period.

Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his vouchers

for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account shall not be subject to any provisions of law requiring specific appropriations or other formal release by the State officers of moneys in their custody. All vouchers issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the approval in writing of the Commissioner of Finance. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in subsection (b) of this Section.

(d) Management of Funds Upon Discontinuance of Unemployment Trust Fund. The provisions of subsections (a), (b), and (c) of this Section, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Insurance Fund of this State shall be transferred to the Treasurer of the Unemployment Insurance Fund, who shall hold, invest, transfer, sell, deposit and

release such moneys, properties, or securities in a manner approved by the Commission and the Department of Finance, in accordance with the provisions of this Act; provided that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The State Treasurer shall dispose of securities or other properties belonging to the Unemployment Insurance Fund only under the direction of the Commission and the Commissioner of the Department of Finance.

4748-g15—Employer Reserve Accounts and Pooled Account.

(a) Employer Reserve Accounts. The Commission shall maintain within the fund a separate reserve account for each subject employer and shall, except as provided in subsection (f) of this Section, credit to such account the total amount of all contributions paid by such employer on his own behalf.

(b) Reserve Account Charging.

(1) The liability of each such account shall be limited to the payment of benefits to eligible workers.

(2) The benefits paid to an eligible worker for whom there is established a benefit period in accordance with the provisions of subsecction (q) of Section 3 shall be charged proportionately against the accounts of those of his subject employers from whom he has base year wages. The proportion so used shall be that ratio which is obtained by dividing the base year wages of a worker from such employer by the total base year wages of such worker.

(3) The benefits paid to an eligible worker on or before September 30, 1939, shall be chraged against the accounts of his most recent subject employers, against whose accounts

the maximum charges hereunder have not previously been made, in the inverse chronological order in which the employment of such worker occurred. All charges to reserve accounts arising from benefits paid after September 30, 1939, but before April 1, 1940, are hereby reversed, and such benefits shall be charged against the accounts of those of his subject employers, against whose accounts the maximum charges hereunder have not previously been made, from whom he earned wages in covered employment during periods of employment occurring within such worker's base period, in the inverse chronological order in which the employment of such worker occurred. No benefit shall be considered as having been paid unless the check therefor has been written and sent. The maximum charges, with respect to benefits payable during each benefit year of such worker, against the account of any subject employer shall not, except as provided in paragraph (4) of this subsection, exceed one-sixth of the wages payable to him by such subject employer for covered employment occurring within his base period or sixty-five dollars per completed calendar quarter or portion thereof, whichever is the lesser. The Commission shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several subject employers for whom a worker performed covered employment during the same quarter.

(4) The benefits paid on or after April 1, 1940, to an eligible worker for whom there has been established a benefit year shall, during the remainder of the term of such benefit year, be charged proportionately against the reserve accounts of the subject employers from whom the eligible worker earned wages in covered employment during the worker's base period. The proportion so used shall be that ratio which is obtained by dividing the wages earned by such worker from each such employer during the worker's base period which have not previously been charged under the provisions of paragraph (3) of this subsection with respect to benefits

paid during such benefit year by the base period wages of such worker which have not previously been charged under the provisions of paragraph (3) of this subsection with respect to benefits paid during such benefit year.

(5) Each subject employer's reserve account shall, unless terminated or exhausted as of the computation date (as defined in paragraph 7 of subsection (c) of Section 7 of this Act), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under the provisions of paragraphs 2, 3 and 4 of this subsection. A subject employer's reserve account shall be deemed to be terminated if such subject employer has ceased to be subject to this Act, and his account has been closed and any balance remaining therein has been credited to the fund's pooled account or to a successor's account as provided in subsection (c) of this Section.

(c) Successive Employer's Reserve Account. Any employing unit which acquires its organization, trade, or business in whole or in part from an employer for whom a reserve account has been maintained by the Commission as herein provided shall immediately notify the Commission thereof, and shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such acquisition as agreed upon by the parties in interest and approved by the Commission. The Commission shall maintain separately any such reserve account in a manner similar to any other reserve account for a period of three years from the date of such acquisition and shall credit the balance remaining in the account as of that date to the reserve accounts of such parties in interest in such agreed proportions; provided that, an immediate transfer of the reserve balance may be made if the successor acquires the whole of the predessor's organization, trade, or business.

(d) Voluntary Contributions by Employers. Any subject employer may at any time make voluntary payments,

additional to the contributions required under Section 7 of this Act, to his reserve account, pursuant to the general rules established by the Commission.

(e) Pooled Account.

(1) The Commission shall maintain within the fund a pooled account, mingled and undivided, to which shall be credited:

(A) All worker contributions;

(B) The emergency amounts diverted from the subject employers' contributions as provided in subsection (f) of this Section;

(C) All realized earnings and gains on investments of the fund;

(D) Except as provided in subsection (c) of this Section, any balance remaining in the reserve account of any previously subject employer three years after such employer has ceased to be subject to this Act;

(E) All fines, penalties and interest on delinquent contributions collected under this Act;

(F) Any payments into or amounts in the fund not allocable to any employer's reserve account;

(G) Any payments collected in accordance with paragraph 3 of this subsection.

(2) Except as provided in subsection (d) of Section 11 of this Act and in paragraph 3 of this subsection, benefits shall be charged against the pooled account only if and to the extent that a subject employer's reserve account does not, as of the computation date (as defined in paragraph 7 of subsection (c) of Section 7 of this Act), equal the maximum amount of benefits then due and chargeable against such account as provided in this Act. To the extent that moneys in the pooled account are sufficient therefor, the Commission shall pay any benefits otherwise due but not payable because of the complete exhaustion as of such computation date of the subject employer's reserve account.

(3) Effective January 1, 1939, any benefits paid through error shall be charged against the pooled account. The repayment of benefits paid erroneously as provided in subsection (d) of Section 16 of this Act shall be credited to the pooled account. The pooled account shall be credited with any sums deducted from future benefits as provided in subsection (d) of Section 16 of this Act.

(f) Emergency Diversion to the Pooled Account. If, on January 1 or July 1 of any year, the amount in the pooled account is less than three times the highest total amount of benefits paid from such account during any one of the preceding three calendar years, the Commission shall have power to declare, with respect to the six months beginning on such January 1 or July 1, an emergency period. During such period, one per cent of the wages upon which the subject employers' contributions are paid shall be paid into the pooled account from such contributions. During such period the force and effect of any section of this Act shall be suspended if such section provides that any subject employer may pay contributions at a rate of less than one (1) per cent, and every subject employer shall pay contributions to the pooled account at the rate of at least one (1) per cent of the payroll or payrolls by which contributions are to be measured in accordance with this Act.

(g) Notwithstanding any requirements of Section 14 of this Act or of the foregoing subsections of this Section, the Commission shall authorize and direct the Secretary of the Treasury of the United States to transfer to the Railroad Unemployment Insurance Account from this State's account in the Unemployment Trust Fund an amount equal to the sum of the amounts remaining, as of June 30, 1939, as the balance of the reserve account of each employer for whom such reserve account was maintained and who was finally determined to be subject to the provisions of the Railroad Unemployment Insurance Act, plus any contributions collected from such employers during the period July 1, 1939, to

December 31, 1939, both dates inclusive. This transfer is to be made prior to thirty days after the close of the 1940 regular session of the General Assembly of this State.

(h) Notwithstanding any requirements of Section 14 of this Act or of the foregoing subsections of this Section, the Commission shall, prior to June 30, 1940, withdraw from the Unemployment Trust Fund an amount equal to the sum of the amounts collected as worker contributions under the Kentucky Unemployment Compensation Law from those workers employed by employers who were finally determined to be subject to the Railroad Unemployment Insurance Act. This amount shall be refunded to such workers in accordance with regulations prescribed by the Commission. The amount withdrawn from the Unemployment Trust Fund shall be placed on deposit with the Treasurer of the Unemployment Insurance Fund in a special fund to be handled by the Treasurer in the same manner as are all other special funds. Any amounts remaining in this special fund as of January 1, 1943, which for any reason cannot be refunded, shall be transferred to the pooled account in the Unemployment Insurance Fund.

4748-g16—Penalties.

(a) Penalties with Respect to Claims for Benefits. Whoever makes a false statement of representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this Act, either for himself or for any other person, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment. Each such false statement or representation, or failure to disclose a material fact shall constitute a separate offense.

(b) Penalties on Employers. Any employing unit, or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact,

to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or the payment required from an employing unit under this Act, or who willfully fails or refuses to furnish any reports required hereunder, or to produce or permit the inspection or copying of records as required hereunder, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment. Each such false statement, or representation, or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) General Penalty. Any person who shall willfully violate any provisions of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a specific penalty is neither prescribed herein nor provided by any other applicable statute, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, and each day such violation continues shall be deemed to be a separate offense.

(d) Repayment of Undeserved Benefits. Any person who, by reason of the non-disclosure or misrepresentation by him or by another of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent), or because of an error, has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall in the discretion of the Commission, either be liable to have such sum deducted from any future benefits payable to him under this Act or shall be liable to repay to the Commission for the Unemployment Insurance Fund, a sum equal to the amount

so received by him and such sum shall be collectible in the manner provided in subsection (b) of Section 8 of this Act for collection of past due contributions, and such amounts shall be credited to the accounts against which it was improperly charged.

DECLARATION OF EMERGENCY

Whereas, the foregoing changes in the Kentucky Unemployment Compensation Law now codified as Sections 4748 g-1 to 4748 g-22, inclusive, Kentucky Statutes, Baldwin's 1933 Supplement, are necessary in order to (1) bring said act into conformity with certain amendments to the Social Security Act, (2) make possible a more effective administration, and (3) remove existing inequities; and whereas, the attainment of such purposes demands immediate action by this body, an emergency is hereby declared to exist and this Act shall become effective on April 1, 1940.

By Mr. Savage.

H. B. 252. An Act relating to racing and parimutuel betting at licensed race tracks.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That all funds or money held by any corporation, asscciation, partnership, person, natural or artificial, licensed to conduct races in the Commonwealth of Kentucky, from uncashed wagers or pari-mutuel bets, shall be and become the property of the Commonwealth of Kentucky, and ninety (90) days after the close or end of any licensed race meeting shall be paid to and become the property of the Commonwealth of Kentucky and used by the Common School Fund for supplying school books to needy or indigent school children.

§ 2. Whereas large sums of money are now held by corporations, associations, partnerships or persons, natural or artificial, licensed to conduct races in the Commonwealth of Kentucky, an emergency is hereby declared to exist and this Act shall take effect from its passage and approval in the manner prescribed by law.

By same.

H. B. 253. AN ACT to repeal Section 4223B-12, Carroll's Kentucky Statutes, Baldwin's 1936 revision, being Section 7 of Chapter 10 of the Acts of the General Assembly of the Commonwealth of Kentucky of the third extraordinary session of 1936.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4223B-12, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Section 7, Chapter 10, of the Third Extraordinary Session of 1936, be and the same is hereby repealed.

§ 2. This Act shall take effect from and after its passage and approval in the manner prescribed by law.

By same.

H. B. 254. AN ACT relating to revenue and taxation and to amend Paragraphs 1 and 2 of Section 4114H-3, being Section 3 of Chapter 4 of the First Extraordinary Session of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4114H-3, numbered paragraph (1), Baldwin's April 1931 Kentucky Statute Service, being

Section 3, Chapter 4, of the First Extraordinary Session of 1938, be and the same is hereby amended so that as amended said numbered paragraph (1) shall be as follows:

"The functions of the Kentucky Tax Commission, as an agency of the Department, shall be:

(1) To assess property in so far as the Department may be authorized by law to make such assessments, provided, that in assessing distilled spirits in free or bonded warehouses, the said Department of Revenue, State Tax Commission, or State Board of Valuation and Assessment, shall assess such distilled spirits at the fair cash value thereof, estimated at the price said spirits will bring at a fair voluntary sale for cash, and provided further, that distilled spirits in free or bonded warehouses may be assessed where located by the taxing authorities of School Districts, Counties and municipalities of the State."

§ 2. All acts and parts of acts in conflict herewith are hereby repealed to the extent of such conflict.

§ 3. This act shall take effect from and after its passage and approval.

By Mr. Ward.

H. B. 255. AN ACT providing for the acquisition, lease, purchase, condemnation, construction, reconstruction, improvement, betterment, extension, operation and maintenance of revenue-producing public works by any incorporated city or town: providing for an election and requiring a favorable vote of a majority of the voters cast at the election before proceedings; authorizing the regulating the issuance of revenue bonds for financing such public works: providing for the payment of such bonds and the rights of holders thereof: providing for the disposition and use of revenues; authorizing the sale of any such public works; and providing for City Public Works Commission.

Said bill is as follows, viz.:

§ 1. Short Title of Act. Be it enacted by the General Assembly of the State of Kentucky: That this Act may be cited as "The Public Works Revenue Bond Act of 1940".

§ 2. Definitions. Be it further enacted, That whenever used in this Act, unless a different meaning clearly appears from the context:

(1) The term "public works" shall mean any one or combination of two or more of the following utilities: water, sewerage, transportation, gas, electric, heat, light or power plants and systems, together with all parts thereof and appurtenances thereto including, but not limited to, supply, transmission and distribution systems, generating plants, reservoirs, dams, sewage treatment and disposal works and all other kinds of revenue producing public works.

(2) The term "municipality" shall include any incorporated city or town of the State.

(3) The term "governing body" shall include bodies and boards, by whatsoever names they may be known, charged with the governing of a municipality.

§ 3. Declaration of Policy. Be it further enacted, That it is hereby declared to be the policy of this State that any municipality acquiring, leasing, purchasing, condemning, constructing, reconstructing, improving, bettering or extending, any public works pursuant to this Act, shall manage such public works in the most efficient manner consistent with sound economy and in the interest of the public. No municipality shall operate such public works primarily as a source of revenue to the municipality, but shall operate such public works for the use and benefit of the consumer served by such public works and for the promotion of the general welfare and the improvement of the municipality.

§ 4. Additional Powers of Municipalities. Be it further enacted, That in addition to powers which it may now have, any municipality shall have power under this Act, subject to the election provided for in section 5 of this Act:

(1) To construct, acquire by gift, purchase, or the exercise of the right of eminent domain, including condemnation of any existing utility properties vested with public interest under private ownership and operation, reconstruct, improve, better or extend any public works, either within or beyond the boundaries of the municipalities, or partially within or partially without the municipality, and to acquire by gift, purchase or condemnation, lands or rights in land or water rights in connection therewith, either within or beyond the boundaries of the municipalities.

(2) To operate and maintain any public works for its own use or for the use and benefit of its inhabitants and also to operate and maintain such public works, for the use and benefit of persons, firms, and corporations (including municipal corporations and inhabitants thereof) whose residence or places of business are (or which are) located outside the territorial boundaries of such municipality (with the consent of such other municipalities).

(3) To issue its bonds to finance in whole or in part the cost of the acquisition, lease, purchase, condemnation, construction, reconstruction, improvement, betterment or extension of any public works. The governing body of the municipality in determining such cost may include all cost and estimated cost of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this Act.

(4) To prescribe and collect rates, fares, fees, and charges for the services, facilities and commodities furnished by such public works.

(5) To pledge to the punctual payment of said bonds and interest thereon the property paid for or to be paid for out of the proceeds of the bonds and the revenues of such public works (including improvements, betterments, or extensions thereto thereafter constructed or acquired) or of any part

of such public works, sufficient to pay said bonds and interest as the same shall become due and to create and maintain reasonable reserves and retirements therefor, so as to make the undertakings self-liquidating. Such amount may consist of all or any part or portion of such revenue.

(6) To contract with any person, individual, corporation, Domestic or Foreign, association, partnership, municipality, The State of Kentucky or other States, the United States of America, the President of United States of America, Tennessee Valley Authority, the Federal Emergency Administrator of Public Works and any and all other authorities, agencies, and instrumentalities of the United States of America, and, in connection with any such contract, to stipulate and agree to such covenants, terms and conditions as the governing body may deem appropriate.

(7) To use any right of way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a public works, held by the State or any other political subdivision thereof, provided that the governing body of such other political sub-division shall consent to such use.

(8) To sell and dispose of any or all of its public works as the Governing Body of the municipality may by ordinance direct.

§ 5. Election to authorize acquisition and operation of Revenue-Producing Public Works, to authorize bonds and to give authority to sell Public Works—Procedure.

BE IT FURTHER ENACTED, that before any revenue-producing public works shall be acquired, or bonds issued under this act, or before any property acquired under this act shall be sold, an election of the qualified voters of the municipality shall be held as follows:

The governing body of the municipality shall adopt a resolution (hereafter called the "Election Resolution") which shall state in substance (a) the property to be acquired and the manner in which it is to be acquired; (b) the amount

or maximum amount of bonds to be issued, the maximum rate of interest, the type of bonds and maturity; (c) the date on which such election will be held, the place or places where votes may be cast and the hours between which such voting places will be open.

Such "Election Resolutions" shall be promptly published in full at least twice, not less than fifteen days prior to the date fixed for such election, in a newspaper published and circulating in the municipality, or if there be no newspaper published in the municipality, then such "Election Resolution" shall be published in a newspaper issued elsewhere and circulating in the municipality, and the "Election Resolution" shall also be posted not less than fifteen days prior to the date fixed for such election in five conspicuous places in the municipality.

The ballot at such election shall contain the words, "For The Acquisition Of (Briefly Described) Revenue-Producing Public Works and the Issuance Of Bonds", and "Against The Acquisition Of (Briefly Described) Revenue-Producing Public Works And Issuance Of Bonds." Opposite each side of said statement shall be a hollow square, each side of which shall be not less than one-quarter inch nor more than one inch. Any qualfiied voter shall be entitled to vote at the election. The voter shall insert a stamp or mark in the square opposite the phrase that he or she favors and thus indicate his or her vote for or against the proposition. It shall not be necessary to print any questions or other words or figures on any ballot, nor need the ballot be of any particular size color or quality, nor need sample ballots be printed, posted or distributed.

At or before the regular meeting of the governing body of the municipality next succeeding the date of such election, such governing body shall canvass the returns and determine and declare the results of the election, and it shall be the duty of the governing body of such municipality to enter upon its minutes the returns and the results in such election,

which shall be conclusive evidence of the results of such election. Except as otherwise provided in this act, such election shall be conducted by the election authorities prescribed by the general law of the State of Kentucky and according to the provisions of the election laws of the State of Kentucky.

If a majority of the qualified voters who vote in such election vote "For The Acquisition Of (Briefly Described) Revenue-Producing Public Works and the Issuance of Bonds", the governing body of the municipality shall be authorized to proceed to acquire the revenue-producing public works and to issue and sell bonds for that purpose; and if no such majority so assents, the proposition thus defeated shall not again be subject to an "Election Resolution" until at least six months shall have expired from the time the election was held.

If an election is held and it results *in favor* of the proposition, the "Election Resolution" and the result of the election shall be published in a newspaper published and circulating in the municipality; or, if there be no newsppaer published in the municipality, then such Election Resolution and the result of the election shall be so published in a newspaper issued elsewhere and circulated in the municipality, and the "Election Resolution" and the result of the election shall also be posted in five conspicuous places in such municipality. Such publication or publication and posting, as the case may be, shall be accompanied by a statement substantially in the following form:—

STATEMENT

The election referred to in the resolution published (or posted) herewith was held on the (here insert date of election.) After such election (Here insert name of governing body and name of the municipality) has found and declared that the proposition was carried by a vote of ..... to ..... No suit, action of proceeding questioning the validity of the proceedings described in the resolution or the purposes thereof or the issuance and sale of such

bonds, can be commenced after the expiration of twenty (20) days from the date of this publication (or posting). By order of the (here insert name of governing body and municipality.

.....

Clerk

No suit, action or proceeding questioning the validity of the municipality's preceedings under said "Election Resolution" shall be commenced after twenty (20) days from the date of publication, or publication and posting (as the case may be), of such Election Resolution and Statement, substantially in the form above set forth.

BE IT FURTHER ENACTED, that when the governing body of any municipality desires to sell or dispose of any of its revenue-producing public works, acquired or constructed under the provisions of this act, said governing body shall first call an election substantially in accordance with the provisions of this section, setting forth fairly the property to be disposed of and terms proposed. If a majority of the qualified voters, who vote in such election, vote "For The Sale or Disposition of the (Briefly Described) Revenue-Producing Public Works", as proposed, the governing body shall be authorized and empowered to so sell or dispose of the property, but not otherwise. If the proposal fails to carry, it shall not be submitted again until at least six months have expired.

§ 6. Bond Authorization: Bond Provisions. Be it further enacted, That after an election has been held as provided in Section 5 of this act, the construction, acquisition, reconstruction, improvements, betterment or extension of any public works will be authorized under this Act and bonds may be authorized to be issued under this Act to provide funds for such purpose or purposes by resolution or resolutions of the governing body which may be adopted at the same meeting at which they are introduced by a majority of all the members thereof then it office and shall take effect immediately upon adoption. Said bonds shall bear interest at

such rate or rates not exceeding six per centum per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times, not exceeding forty years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, convenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold so that the interest cost to the City shall not exceed six per cent per annum. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or any agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the City of New York, New York, or the City of Louisville, Kentucky. Pending the preparation of the definite bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all purposes of the *Uniform Negotiable Instruments Law of the State.*

§ 7. Covenants in Resolution Authorizing Issuance of Bonds. Be it further enacted, That any resolution authorizing the issuance of bonds under this Act may contain covenants as to (a) the purpose or purposes to which the proceeds of sale of said bonds may be applied and the use and disposition thereof, (b) the use and disposition of the revenue of the public works for which said bonds are to be issued, including the creating and maintenance of reserves, (c) the transfer from the general funds of the municipality to the account or

accounts of the public works an amount equal to the cost of furnishing such municipality or any of its departments, boards or agencies with the services, facilities and commodities of said public works, (d) the issuance of other or additional bonds payable from the revenue of said public works, (e) the operation and maintenance of such public works, (f) the insurance to be carried thereon and the use and disposition of insurance moneys, (g) books of account and the inspection and audit thereof and as to accounting methods, and (h) the terms and conditions upon which the holders of said bonds or any proportion of them or any trustees therefor shall be entitled to the appointment of a receiver by the Chancery Court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of said public works, operate and maintain the same, prescribe rates, fees or charges, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the municipality itself might do. The provisions of this Act and any such resolution or resolutions shall be a contract with the holder or holders of said bonds, and the duties of the municipality and of its governing body and officers under this Act and any such resolution or resolutions shall be enforceable by any bond-holder, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

§ 8. Validity of Bonds. Be it further enacted, That said bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any of all the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings, relating to the lease, acquisition, purchase, condemnation, construction, reconstruction, improvement, betterment, or extension of the public works for which said

bonds are issued. The resolution authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§ 9. Lien of Bonds. Be it further enacted, That all bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have a prior and paramount lien on the property and the revenue of the public works, for which said bonds have been issued, over and ahead of all bonds of any issue payable from said revenue which may be subsequently issued and over and ahead of any claims or obligations of any nature against said revenue subsequently arising or subsequently incurred. All bonds of the same issue shall be equally and ratably secured without priority by reason of number date of bonds, of sale, of execution, or of delivery, by a lien on said revenue in accordance with the provisions of this Act and the resolution or resolutions authorizing said bonds.

§ 10. Bonds Not a General Obligation of Municipality. Be it further enacted, That no holder or holders of any bonds issued under this Act shall ever have the right to compel any exercise of taxing power of the municipality to pay said bonds or the interest thereon. Each bond issued under this Act shall recite in substance that said bond, including interest thereon is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the municipality within the meaning of any statutory or constitutional provision or limitation.

§ 11. Public Works to be Self-supporting. Be it further enacted, That the governing body of a municipality issuing bonds pursuant to this Act shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such public works, and shall revise such rates, fees or charges from time to time whenever necessary so that such public works shall be and always remain self-supporting.

The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue, is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and manitenance of such public works, including reserves therefor.

§ 12. Disposition of Revenues. Be it further enacted, That any municipality shall devote all revenues derived from a public works to or for the payment of all operating expenses; bond interest and retirement and/or sinking fund payments; the acquisition and improvements of the public works; contingencies; the payment of other obligations incurred in the operation and maintenance of the public works and the furnishings of services; the redemption and purchase of bonds in which case such bonds shall be canceled; the creation and maintenance of a cash working fund; and, if the governing body of the municipality shall by resolution so request, *payments to the municipality and county and state in lieu of ad valorem taxes on the property of the public works within the corporate limits of the municipality not to exceed the amount of taxes payable on privately owned property of similar nature. Any surplus thereafter remaining, after establishment of proper reserves, if any, shall be administered, used and applied as the Governing Body of the municipality may by ordinance direct.*

§ 13. Public Works and Bonds Exempt From Taxation. Be it further enacted, That so long as a municipality shall own any public works the property and revenue of such public works shall be exempt from all state, county and municipal taxation. Bonds and the income therefrom issued pursuant to this Act shall be exempt from all State, county, and municipal taxation except inheritance, transfer and estate taxes.

§ 14. Right to Franchises and To Make Agreements With Another Municipality. Be it further enacted, That any

city or town in this state shall have the right to acquire a franchise to furnish any public service provided by its public works to any other city or town or county in the same way and manner that any private corporation or individual may acquire such franchise. Any city or town in this state owning and operating its own public works shall have the power to enter into a contract or agreement with any other city or town or county to furnish such other city or town with any public service supplied by its public works. Such contracts or agreements may be entered into by the city council, board of aldermen, city commissioners, trustees or other governing body of such cities or counties and said authorities are given full power and authority to so contract and agree with each other in regard to the furnishing of such public services, and such contracts shall set out specifically the terms thereof; and any city, town or county is authorized to pay the city or town furnishing such services as provided in such contracts from year to year or for a term of years; and any city or town is authorized to do any and all things in carrying into effect the provisions of this act which any individual or corporation may do.

§ 15. Monies of Municipalities. Be it further enacted, That all monies of a municipality derived from a public works shall be deposited in one or more banks or trust companies in a special account or accounts, and, if the municipality shall so require, each of such special accounts shall be continuously secured by a pledge of direct obligations of the United States of America or of the State of Kentucky having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account or accounts. Such securities shall either be deposited with the municipality or held by a trustee or agent satisfactory to the municipality. In lieu of any such pledge of such securities, said deposits may be secured by a surety bond or bonds which shall be in form, sufficiency and substance satisfactory to the municipality. All banks and trust

companies are authorized to give such security for such deposits. Provided, however, there is exempted and excepted from this section all surplus monies, administered, used and applied as the governing body of the municipalities may direct as provided in section 11 of this Act.

§ 16. Service Rendered to Municipality and Departments and Works Thereof. Be it further enacted, That charges shall be made for any service rendered by a public works to a municipality or to any department or works thereof, at not less than the cost thereof. Revenues derived from such services shall be treated as all other revenues.

§ 17. Consent of State Agencies. Be it further enacted, That it shall not be necessary for any municipality proceeding, under this Act to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board commission or other like instrumentality of the State of Kentucky in order to acquire, condemn, construct, purchase, reconstruct, improve, better, extend, maintain and operate any public works.

§ 18. Regulation. Be it further enacted, That neither the Public Service Commission of Kentucky nor any other board or commission of like character at present existing or hereafter created shall have jurisdiction over the municipality in the management and control of any public works, including the regulation of the rates, fares, fees, or charges.

§ 19. Condemnation Proceedings. Whenever, in the opinion of the governing body of any city or town, it is necessary under the provisions of this act, to condemn lands, water rights, rights of way, easements, franchises or other property, including existing utility properties under private ownership, either within or beyond the boundaries of the city, the said governing body may, by resolution or ordinance reciting such need, order the condemnation of such land, rights-of-way, easements, franchises or other property. The proceedings for such condemnation shall be in the circuit court of the county in which such city or town is situated or in the circuit

court of the county in which the property is located and shall be conducted in the name of the city by its authorized attorney or attorneys. The proceedings shall be commenced by filing a petition against all persons having an interest in the property, describing the land or other property rights-of-way or easement sought to be condemned upon which summons shall be issued and said proceedings carried on as nearly as may be as actions at law by ordinary proceedings are conducted. Non-residents and persons under disability shall be proceeded against in the manner provided by the Civil Code of practice.

Commissions shall be appointed to assess the damages as provided in Section 3095a of Kentucky Statutes, 1936 Edition, and in all respects the provisions for the condemnation of land and other property set out in sections 3095a, 3095b, 3095c, 3095d, 3095e, 3095f and 3095g, shall be followed.

§ 20. Public Works Commission—Powers, Duties and Qualifications. Any city or town leasing, acquiring or constructing any public works under the provisions of this act may manage, operate and control the same through a City Public Works Commission, and the Mayor of any such city or town, subject to the approval of the board of aldermen or the legislative body governing such city or town, may appoint not less than one nor more than five persons, as commissioner or commissioners, who shall constitute a body corporate and be known as the City Public Works Commission. The term or terms of office of the commissioner or commissioners shall be determined by the governing body of the municipality. The salaries of the commissioners and of all agents and employees of the Commission shall be fixed by the governing body of the municipality, by ordinance, and all of said salaries and wages and all other expenses of said commissioners shall be paid out of revenues of the public works and not from any city tax receipts.

Each appointee to the commission shall be at least thirty years of age and reside within the municipality and be the

owner in his own right of real estate situated therein. No officer of the city or town, holding a paid or unpaid office, shall be eligible for appointment to said commission.

§ 21. Construction of Act. Be it further enacted, That the powers conferred by this Act shall be in addition and supplemental to, and the limitations imposed by this Act shall not affect, the powers conferred by any other general, special or local law. Public works may be leased, acquired, purchased, constructed, reconstructed, improved, bettered, condemned and extended, and bonds may be issued under this Act for said purposes, notwithstanding that any general, special or local law may provide for the lease, acquisition, purchase, condemnation, construction, reconstruction, improvement, betterment, and extension of a like public works, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law, including, but not limited, to, any requirement for the approval by the voters of any municipality.

§ 22. Separability of Provisions. Be it further enacted, That if any provision of this Act, or the application of such provision to any persons, body or circumstances shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

§ 23. Time of Taking Effect. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

By Mr. Shaikun.

H. B. 256. AN ACT to amend and re-enact Section 1055 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being also known as Chapter 221 of the Acts of the General Assembly of 1893, as amended by Chapter 96, Section 1, of the Acts of the General Assembly of 1934; further provided

for the keeping of record books by the Judge of the Quarterly Court; further providing for the appointment of the Clerk of the Quarterly Court; further providing for the appointment of a Clerk and five Deputy Clerks of Quarterly Courts in counties containing a population of 250,000 or more, fixing their compensation and providing for their rights, powers and duties, and specifically providing for the taking of all bonds and recognizances to be given by persons arrested in such counties, for their appearances before the Court of any Justice of the Peace of such county, the Judge of the County Court, and the Judge of the Quarterly Court; and declaring an emergency.

Said bill reads as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1055 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, is hereby repealed and re-enacted so that when it is re-enacted it shall provide as follows:

Section 1055. The Judge of the Quarterly Court shall keep a record of all of his official acts out of term time, and shall keep a docket, order book and execution book, in which shall be recorded as Clerks are required to do, the proceedings of the Court, and shall fix a rule day for the return of executions and other processes. The record books shall be paid for by the County. He may appoint a Clerk of his Court who shall have power to file papers and issue all processes and administer the oaths and to issue warrants of arrest and criminal summons for offenses within the jurisdiction of said Court, after there has been filed before said Clerk the proper affidavit.

Section 1055a-1. In Counties having a population of 250,000 or more the County Judge elected at a regular election for said office, shall, on the first Monday in July succeeding his election, appoint for a period of four years a Clerk and five Deputy Clerks of the Quarterly Court, and shall

have the power to file papers and issue all processes, and for their services the Clerk shall be paid at the rate of $3,000.00 per annum and each of the Deputy Clerks at the rate of $1,500,00, per annum, said salaries to be paid in monthly installments by the Fiscal Court of the County in which said Clerk and his Deputies are appointed, out of the County Treasury, from money raised for County Purposes, and fees collected from the Quarterly Court shall be paid into the Treasury of the County. Said collections shall be made by the Clerk, who shall monthly settle with the County Judge and pay the amount found by such settlement in his hands immediately into the County Treasury.

Section 1055a-2. The Clerks of the Quarterly Courts held in such Counties shall collect upon each civil action or civil proceeding commencing with original process in said Quarterly Courts, except upon appeals from the orders and judgments of Fiscal Courts, Police Courts, having civil jurisdiction, and Courts of Justices of Peace, the sum of $1.50 which sum shall be collected when each civil action or civil proceeding is instituted and shall be applied as a credit upon the Clerk's or Judge's costs accrued in the respective civil actions and proceedings, and such funds, after collection shall be accounted for by the said Clerks and disposed of as hereinabove provided.

Section 1055a-3. Said Clerks and Deputies shall, before entering upon the discharge of their duties, execute bond before the County Court with security approved by the Court, to the Commonwealth of Kentucky, for the faithful performance of their duties.

Section 1055a-4. In addition to their duties as Clerks of the Quarterly Court, the Clerks of the Quarterly Courts and their deputies in Counties having a population of 250,000 or more shall, when requested so to do, take all bonds required by law to be taken, or given, by persons arrested in such counties in which they are appointed, for the appearance of such arrested persons before the Court of any Justice of

the Peace of such County, before the Judge of the County Court, and before the Judge of the Quarterly Court. When any person is arrested under a warrant issued by such Quarterly Court or is arrested without a warrant and is slated by the arresting officer to appear for a hearing before such Quarterly Court, such Clerks shall have the exclusive right to take the bond for the appearance of such persons so arrested and shall also take all bonds or recognizances required by law to be taken or given in the Quarterly Court and County Court of such counties. Such Clerks shall charge for their services in taking, receiving and recording said bonds, a fee of $1.00 for each bond taken, such fees to be paid by the party for whom the services are rendered at the time each such bond is taken. Such Clerks or one of their deputies shall be in their office at all hours, day and night, for the purpose of taking bonds. All bonds and affidavits shall be returned within 24 hours to the proper tribunal. Such Clerks shall keep a record of all bonds taken by them, showing the date, amount of bond, name of defendant and the charge under which the arrest was made.

Whereas, it is deemed important by the General Assembly that in counties containing a population of 250,000 or more, the Clerk of the Quarterly Court, or one of his deputies shall, as soon as possible, be in his office at all hours, day and night, for the purpose of taking bonds, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

Repeal of conflicting act. All acts or parts thereof in conflict with the provisions of this act, are, to the extent of such conflict, hereby repealed.

By Mr. Hunnicutt.

H. B. 257. AN ACT to Regulate the Use of Highways by Motor Vehicles Carrying Other Vehicles and Providing a Penalty for Violation Thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The rapid increase in the use of the public highways by motor trucks engaged in the transportation of other motor vehicles, and the fact that under existing law this class of carriers is not effectively regulated, have increased the dangers and hazards to other motorists upon the public highways and make it imperative that proper regulations should be employed to the end that safety upon the public highways may be promoted; that inconvenience to other users of the highway may be minimized; that minimum hinderance and stoppage to other users of the highways compatible with the needs of the public for adequate transportation service may be effected; that the highways may be safeguarded from improper usage and that operations thereon which threaten the public safety or which are detrimental to the general welfare be prevented. It is therefore declared to be the policy of the General Assembly of the Commonwealth of Kentucky to adequately regulate the use of the public highways of this Commonwealth by motor vehicles engaged in transporting other motor vehicles, and it is the purpose of this Act to accomplish such policy.

§ 2. On and after July first, one thousand nine hundred forty-one (1941), it shall be unlawful for any person, firm or corporation to operate on any highway of this Commonwealth:

(a) Any motor vehicle having more than one level, for the carriage of other motor vehicles;

(b) Any motor vehicle carrying other motor vehicles, any part of which is carried at a height of more than one hundred fifteen (115) inches above the ground;

(c) Any motor vehicle carrying other motor vehicles, any part of which is above the cab of the carrier vehicle, or over the head of the operator of such carrier vehicle;

(d) Any motor vehicle carrying any other motor vehicle, any axle of which is more than three feet higher than any other axle of such carried vehicle.

§ 3. The provisions of this Act shall not apply to any vehicle transporting other vehicles used in construction or maintenance work or in the development of power, oil, natural gas or other minerals, or for agricultural purposes.

§ 4. Any person violating any of the provisions of this Act shall, upon conviction thereof, be sentenced to pay a fine of Twenty-five Dollars ($25.00) and costs, or may be sentenced to jail for a period of not more than 5 days.

By Mr. Brown.

H. B. 258. AN ACT conferring upon the city and county air board in counties containing a city of the first class, and all cities of the second and third class, the power to promulgate and enforce air port zoning regulations limiting the height of structures and height of natural growth in the vicinity of airports of the public utility class by which they may be served; for this purpose conferring jurisdiction over areas not within their corporate limits; authorizing said cities to delegate the power to adopt, administer and enforce airport zoning regulations to any zoning board or planning commission; limiting the regulation of non-conforming structures and objects of natural growth; authorizing the lowering or removal of non-conforming structures and objects of natural growth by purchase, grant, or condemnation; making provisions for the granting of variances in certain cases of practical difficulty or unnecessary hardships; authorizing adoption of a system of permits for all structures and objects of natural growth within airport zones; making provision for notice, hearing, appeal and prescribing the procedure governing the adoption of airport zoning regulations, applications for permits and variances and judicial review; delegating certain powers to the Air Board of Kentucky; and

providing penalties and remedies for violations of this Act, or any ordinance or regulation made under authority conferred hereby.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act, unless the context otherwise requires:

(1) "City and county air board" shall mean the city and county air board as created by Section 938j-1, Carroll's Kentucky Statutes, 1936 Revision.

(2) "City" shall mean all cities of the second and third class in the Commonwealth of Kentucky.

(3) "The Air Board of Kentucky" shall mean the Air Board as created by Section 165-25, Carroll's Kentucky Statutes, 1936 Revision, or any similar body created by the Legislature to succeed same.

(4) "Airport" means any area of land usable for the landing and taking-off of airplanes.

(5) A city is "served" by an airport if such airport is used for private flying or otherwise as a point of arrival or departure by air by persons residing or having their place of business in such city.

(6) An airport is of the "public utility class" if it is available to the general public for private flying or otherwise as a point of arrival or departure by air.

(7) "Person" means any individual, firm, co-portnership, public or private corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.

(8) "Structure" means any object constructed or installed by man including, but without limitation, buildings, towers, smoke-stacks, and overhead transmission lines.

§ 2. *Power to Promulgate and Enforce Airport Zoning Regulations.* In order to protect airport approaches against obstruction, to protect the life and property of users of airports of the public utility class and of occupiers of land in their vicinity, to encourage and foster the use of such airports, to safeguard the public investment therein, and to promote the public health, safety, and general welfare, the city and county air board and cities of the second and third class, are hereby given the power to promulgate, administer, and enforce, in the manner and upon the conditions hereinafter prescribed, zoning regulations with respect to any airports by which they may be served, of the public utility class, whether owned by them or not, dividing the area surrounding such airports into zones and limiting the height of all existing and future structures and objects of natural growth therein; provided, that where such an airport serves more than one city, this power shall be vested only in the city owning the airport, or, if it is not municcipally-owned or is owned jointly by two or more cities, only in the city having the greater or greatest interest in protection of its approaches, as determined by the Air Board of Kentucky, and wherever a city lacks this power with respect to an airport serving it, it shall not promulgate any regulations of any kind that would conflict or interfere with airport zoning regulations promulgated by a city authorized by this Section so to do, or in any way hinder or interfere with the administration and enforcement of such regulations; provided further, that if, in the judgement of the Air Board of Kentucky, a city and county air board, or a city having this power fails to exercise it in the way best calculated to effectuate the purposes of this Act, the said Board may itself promulgate, administer, and enforce airport zoning regulations with respect to the airport in question, in accordance with the provisions of this Act, which regulations shall make null and void any such regulations adopted by the city and county air board, or the city, and continue in effect until the city and county air

board or the city agrees to follow the Board's recommendations. For purposes of such zoning by the Air Board of Kentucky, all provisions of this Act applicable to zoning by city and county air board and cities shall apply as if the said Board were such city and county air board or city.

In promulgating airport zoning regulations under authority of this Act, the city and county air board or the city, or agency thereof, promulgating such regulations shall prescribe such zone and height limits as it considers reasonably necessary and calculated to ensure airport approaches and turning space adequate for all flying operations expected to be conducted at the airport in question; provided, that such limits shall not be more exacting than is justified taking into account, among other considerations, the terrain in the vicinity of the airport, the height of existing structures and objects of natural growth above the level of the airport, and the possibility of lowerng or removing existing obstructions; provided further, that the area zoned shall in no case extend more than five miles from the airport; provided further, that the zone and height limits shall in no case be more exacting than is necessary to conform to the current airport approach and turning space standards of the Civil Aeronautics Authority, or such other agency of the Federal Government as may be concerned with the developement of civil aeronautics.

Any city upon which this power is conferred may promulgate, administer, and enforce airport zoning regulations even though all or a part of the airport in question, or all or a part of the area to be zoned, is located outside its corporate limits and within the territory of another political subdivision. In all such cases, the political subdivivision having within its territorial limits all or a portion of an airport or all or a portion of its zones but not vested with this power shall not promulgate any regulations of any kind that would conflict or interfere with the airport zoning regulations promulgated by the city authorized by this Section so to do, or

in any way hinder or interfere with the enforcement of such regulations.

The governing body of any city may delegate the power to promulgate, administer, and enforce airport zoning regulations granted by this Act to any zoning board of planning commission under its jurisdiction, and may, if it so desires, authorize one agency to determine and promulgate the regulations and another to administer and enforce them.

§ 3. *Permits and Variances.*

(a) *Permits for Continuance of Non-conforming Uses.* The owner of any structure or object of natural growth existing at the time of the adopton of airport zoning regulations under authority of this Act which does not conform to said regulations, shall be granted a permit authorizing continuance of such non-conforming use upon application therefor made by him to the board, commission or agency authorized to administer and enforce the regulations; provided that, if such application is not made within 90 days of the effective date of the regulations in question, such board, commission or agency shall by appropriate action compel the owner of the non-conforming structure or object of natural growth, at his own expense, to lower or remove such object to the extent necessary to conform to the regulations.

(b) *Permits for Change and Repair of Non-conforming Uses.* Before any existing non-conforming structure or object of natural growth for which a permit has been issued in accordance with subsection (a) hereof may be altered or repaired, rebuilt, allowed to grow higher, or re-planted, a permit must be secured from the board, commission, or agency authorized to administer and enforce the regulations authorizing such change or repair. No such permit shall be granted that would permit the structure or object of natural growth in question to be made higher or become a greater hazard to air navigation than it was when the permit for its continuance was granted under subsertion (a) hereof; and, where the structure or object of natural growth has been

more than 50% torn down or destroyed, whether voluntarily, by act of God, or otherwise, or has become more than 50% deteriorated or decayed, no permit shall be granted that would permit such structure or object of natural growth to exceed the applicable height limit prescribed by the zoning regulations; instead, in all such cases of 50% destruction, deterioration or decay, whether application is made for a permit for repair or not, the said board or agency shall by appropriate action compel the owner of the non-conforming structure or object of natural growth, at his own expense, to lower or remove such object to the extent necessary to conform to the said height limit. Except as indicated, all applications for permits for change or repair of non-conforming uses shall be granted.

(c) *Permits for All Uses.* Where advisable to facilitate the enforcement of zoning regulations adopted pursuant to this Act, a system for the granting of permits for all uses and structures within the zoned area may be established.

(d) *Variances.* Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth, in excess of height limits prescribed under authority of this Act, must apply to the board, commission or agency authorized to consider such applications, for a variance from the zoning regulations in question. Such variances shall be allowed upon a showing of practical difficulty or unecessary hardship together with a showing that the structure or object of natural growth in question will not constitute an undue hazard to aircraft operations at the airport.

(e) *Obstruction Marking and Lighting.* In granting any application for any permit or variance in accordance with this Section, the board, commission, or agency authorized to do so, may, if it deems such action advisable to effectuate the purposes of this Act, so condition such permit or variance as to require the owner of the structure or object of natural growth in question to install and maintain obstruc-

tion markers and/or lights upon such structure or object at his own expense, in accordance with accepted methods of obstruction marking and/or lighting.

(f) *Exhaustian of Remedies.* No person desiring to continue a non-conforming use, to change or repair a non-conforming use, to take any action requiring a variance under sub-section (d) hereof or to take any other action covered by this section, shall initiate any action in the courts unless and until he has exhausted the remedies provided by this section.

§ 4. *Power to Lower or Remove Lawful Non-conforming Uses.* In order to eliminate or mitigate existing hazards to landing and taking off at airports of the public utility class, to improve and make safer such airports, and to permit public use of the obstructed air space needed for such use all city and county air boards and all cities granted the power to promulgate, administer, and enforce airport zoning regulations, by Section 2 thereof, are hereby given the power to acquire, by purchase, grant or condemnation, such estate or interest in any structure or object of natural growth, existing at the time of adoption of zoning regulations pursuant to the Act, which does not conform to the height limitations of said regulations and for which a permit has been granted in accordance with Section 3(a) hereof, as is necessary to permit lowering or removal of such structure or object of natural growth to the extent necessary to conform to said height limits.

In cases of imminent danger to the health, safety and general welfare of the public, city and county air board, or the city shall have the power to take such immediate steps as are necessary to remove said danger, and a hearing shall thereafter be held to determine what compensation, if any, should be made to the owner of the structure or object of natural growth causing said danger.

§ 5. *Procedure.* In all cases of applications for permits and variances as provided for in Section 3 hereof, a

public notice shall be published in the manner prescribed by law for publication of legal notices, of a public hearing upon the application in question; a public hearing shall be held at which any person having an interest in the proceedings shall have an opportunity to offer evidence for or in opposition to the application in question; and written findings of fact and conclusions of law shall be made the by board, commission or agency authorized to consider such application, based upon the evidence offered at the public hearing.

§ 6. *Judicial Review.* Any person aggrieved by any zoning regulations adopted pursuant to this Act or by any order or ruling upon an application for a permit or variance, may, within 30 days thereof, appeal therefrom to the circuit court in the county within which the structure or object of natural growth in question is located, after such notice as such court shall direct to the parties interested, including all political subdivisions served by the airport affected and the city and county air board or the city promulgating the zoning regulations in question, a hearing may be had before such court at an early and convenient time and place fixed by it, and said court may, by its decree, annual, affirm, or alter the regulations, order or ruling complained of, if it finds that the applicable rules of law so require; provided that, in all cases, any findings of fact that may have been made by the board, commission, or agency authorized to hear and consider applications for permits and variances, if supported by substantial evidence, shall be accepted by the court as conclusive. Appeals from the circuit court to the court of appeals shall be in accordance with the statutes governing such appeals now in force and effect.

§ 7. *Penalties and Remedies.* Any person violating any of the provisions of this Act, or any regulation, order or ruling promulgating or made pursuant to this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100.00, nor more than $500.00 for each offense. In addition the city and county air board or city authorized

to administer and enforce zoning regulations promulgated pursuant to this act may institute in any court of competent jurisdiction an appropriate action or proceeding to prevent, restrain, correct or abate any violation of such zoning regulations, or any order or ruling made in connection with their administration or enforcement.

§ 8. *Separability.* Each separate provision of this Act shall be deemed to be independent of all other provisons herein, and if any provisions of this Act is declared to be invalid, all other provisions thereof shall remain valid and enforceable. If any provision of this Act is held invalid with regard to any person or circumstances, it shall not be invalid as to other persons or circumstances.

§ 9. *Inconsistent Acts Repealed.* All Acts or parts of Acts inconsistent with this Act are hereby repealed.

§ 10. *Citation of Act.* This Act shall be known and may be cited as "The Airport Zoning Enabling Act."

By same.

H. B. 259. An Act to repeal Section 4223b-12 Kentucky Statutes, Carroll's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4223b-12, Kentucky Statutes, Carroll's 1936 Edition, being Chapter 12, Secton 7 of the Acts of 1936, Third Extraordinary Session be, and the same is hereby repealed.

All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

By Mr. Howard.

H. B. 260. An Act relating to the licensing of dogs and the protection of live stock from injury by dogs.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 68b-4 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

On or before the first day of January of each year the owner of any dog shall apply to the sheriff or deputy sheriff of the county in which the owner resides, either orally or in writing, for a license for each dog owned or kept by him. The application shall state the breed, sex, age, color and markings of the dog, and the name and address of the last previous owner. Each owner shall be entitled to a license for one dog without fee, but all dogs kept or harbored by members of one family living together shall be considered to be the property of the head of the family for the purpose of determining whether a fee is due. For a second dog the application shall be accompained by a fee of two and one-half dollars, and for each additional dog the application shall be accompanied by a fee of five dollars.

§ 2. Section 68b-6 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The Commissioner of Agriculture shall prepare and furnish to the sheriff annually, metal tags to be given by the sheriff to the owners of dogs when such owners make the required application for license. The tags shall be of metal and shall bear the name of the county issuing it, and a serial number corresponding with the number of the license issued to the owner. The tags shall also have impressed thereon the calendar year for which the tag is issued, and shall be equipped with a substantial metal fastening device. The general shape of the tag shall be changed from year to year. The blank licenses and metal tags shall be paid for by the county for which they are issued. If any tag is lost it shall be replaced without cost by the sheriff upon application by the person to whom the original license was issued and upon production of the original license.

§ 3. Section 68b-15 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

An accurate record of all license fees collected by the sheriff or paid over to him by a deputy sheriff shall be kept in a book furnished by the Commissioner of Agriculture as a matter of information; but all such funds shall be turned into the county fund for the payment of live stock or poultry killed or damaged by dogs, except as hereinafter provided. All bills incurred under this Act shall be paid out of said fund. The sheriff or deputy shall retain five cents as his fee for each license issued by him. Where licenses are issued without fee the sheriff may retain his fee for such licenses from the fees received from licenses for which a fee is charged.

§ 4. A new section of the statutes is created to be numbered Section 68b-16a and to read as follows:

All dogs listed by the county tax commissioner shall be placed upon the tax books in the same manner as other personal property, but instead of being assessed at a valuation the amount of fee due under Section 68b-4 shall be entered as the tax. The sheriff shall collect all unpaid dog taxes in the same manner as ad valorem taxes, and they shall be subject to the same interest and penalties, but the sheriff shall keep the collections in a separate fund and on settlement the amount thereof shall be paid into the county treasury and credited to the county live stock fund. For the purpose of collecting unpaid dog taxes they shall be deemed payable at the same time that state and county ad valorem taxes are due and payable. The sheriff shall receive a fee of five cents for each tax collected under this section.

§ 5. A new section of the statutes is created to be number Section 68b-25a, and to read as follows:

(1) Every person making claim for loss or damage to live stock or poultry by dogs shall, in written complaint to the county judge or justice of the peace, state whether or not he was the owner of the live stock or poultry on the previous

tax assessment date, and whether the live stock or poultry was in being on that date. The county judge or justice before whom the complaint is made shall examine the tax assessment rolls of the county and asccertain whether the live stock or poultry was listed for taxation, and if so, the assessed value.

(2) No person shall receive an order for payment of loss or damage to live stock or poultry from the county live stock fund, if the live stock or poultry was in being and owned by him on the previous assessment date, unless the live stock or poultry was listed for taxation.

(3) The amount paid to any person from the county live stock fund for loss or damage to live stock or poultry listed for taxation shall in no case be more than twenty-five per cent over the assessed value.

§ 6. Section 68b-33 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any person, other than an officer, violating this Act shall be fined not less than twenty-five dollors nor more than one hundred dollars, or imprisoned in the county jail not less than thirty days nor more than ninety days, or both so fined and imprisoned. All fines collected under this Act, after costs and commissions are deducted therefrom, shall be forthwith paid to the treasurer of the proper county to be credited to the county live stock fund.

By Mr. Bosworth.

H. B. 261. An Act authorizing attachment and garnishment of salaries of public officers and employes; amending section 1791b and repealing section 4503-10 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1701b of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

1701b. *Salaries of public officers and employes may be attached or garanished.* (1) Salaries or sums due state, county, school board, and city officers and employes shall shall be subject to attachment or garinshment the same as if such sums were due from an individual.

(2) Actions authorized by subsection (1) shall be brought in any court having jurisdiction of the subject matter as is now provided by law.

§ 2. Section 4503-10 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

By Mr. Neikirk.

H. B. 262. AN ACT proposed by Representative Homer Neikirk to require as a safety measure assistants or helpers to employes using metal welding apparatus; providing that in an action for personal injuries or death of such an employee he shall not be deemed to have assumed the risk of his employement where a violation of this act contributed thereto; providing for certain exemptions and fixing penalties for violations of the act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. All persons, firms or corporations operating a factory or workshop where the welding, cutting or heating of steel, iron or other hard and maleable metal is done by use of an electric or acetylene torch or apparatus shall, for the protection of their employees using such torches apparatus, provide at least one assistant or helper to aid and assist each of such employees while engaged in such work, except that one assistant or helper may serve two employees using such torches or apparatus where such torches or ap-

paratus is being used in close proximity, clearly visible and readily accessible to said assistant or helper.

In all actions hereafter brought against any person, firm or corporation to reccover damages for personal injuries to or for the death of any employee engaged in using such apparatus, such employee shall not be held to have assumed the risk of his employment in any case where the violation of Section 1 of this act contributed to such injury or death.

The provision of this Act shall apply only where all or a substantial part of the employee's duty and work is to use such welding apparatus as described in Section 1 hereof, and shall not apply where such use is incidental to his work. The provisions of this Act shall not apply to productive electric welding machine operated with a foot treadle.

Every person, firm or corporation who shall fail to comply with the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty ($20.00) dollars or more than fifty ($50.00) dollars for each offense.

By Mr. Lyon.

H. B. 263. An Act relating to the marketing of tobacco and the maximum warehouse charge to be paid by producers.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Secction 4814b-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Every tobacco warehouseman, corporation, firm, or individual, who receives or undertakes to receive or take care of leaf tobacco, for sale at public auction, with or without compensation or reward, shall each day, prior to the sale of any leaf tobacco, cause to be posted in a conspicuous place upon his premises a list stating the aggregate number

of pounds of each grade of tobacco that will that day be offered for sale in the warehouse.

(2) All tobacco offered for sale shall be sold indiscriminately according to the grade and so arranged on the floor that the owner of any pile, lot or basket will not be identified to the buyer. The amount received each day from the sale of each grade of tobacco shall be distributed pro rata among the owners of the tobacco sold in the proportion the number of pounds sold for each owner bears to the total number of pounds sold in that grade.

(3) No warehouseman shall in the sale at public auction of tobacco for others charge any sum as a commission or for services in connection with the sale in excess of sixty cents per hundred pounds of tobacco.

(4) Every warehouseman shall each day cause to be posted in a conspicuous place upon his premises a notice stating the number of pounds in the aggregate of each grade actually sold and the average price per pound received on the previous day.

(5) No tobacco shall be delivered to or received by any warehouseman for sale at public auction unless the true names or post office addresses of the producer and owner of the tobacco are furnished to the warehouseman by the person delivering it.

§ 2. 4814b-4 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any warehouseman, corporation, firm or individual who shall in said notice falsify the actual number of pounds sold, or the average price thereof, or shall falsely list the grade or number of pounds of tobacco that will that day be offered for sale, or shall furnish a false name or address of the owner or producer to any warehouseman shall be fined five hundred dollars for each offense.

§ 3. 42c 5 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) The Commissioner shall:

(a) Establish and promulgate from time to time official standard grades for any kinds of tobacco in green order produced in this state which will show the classification, quality, condition and other characteristics of such tobacco, as set forth in standard grades established by the U. S. Department of Agriculture with such additional or supplementary grades as may be needed.

(b) Enter and inspect personally or through any authorized agent each place within the State of Kentucky where tobacco in green order is produced, packed, stored, sold, shopped, transported, offered or exposed for sale, or delivered for shipment, and inspect such places and inspect and grade all tobacco found in any such places; or authorize the United States Government graders to enter and inspect and grade all or any tobacco found in any such place, for him in his behalf.

(c) Label each pile or basket of tobacco in green order according to the grade classification, condition or characteristic found.

(d) Require each pile of tobacco in green order sold, offered or exposed for sale to be labeled according to the grade found by the official representative designated under authority of this Act.

(2) The Commissioner shall collect from the purchaser not to exceed one-half of one cent on each one hundred pounds of tobacco graded or caused to be graded under the provisions of this Act, for the purpose of enforcing the provisions of this Act.

§ 4. 42c-6 of Carroll's Kentucky Statutes, 1936 edition is amended to read as follows:

All tobacco shall be arranged on the floor acccording to the grade as found by the official inspector or grader, and shall be so marked as to indicate the grade found by the official inspector or grader.

By Mr. Hunnicutt.

H. B. 264. AN ACT to license the operation of oil wagons selling or transporting petroleum, gasoline, lubricating or other oils by wholesale, or any derivatives of petroleum by wholesale, fixing a license for the operation of such wagons at $25.00 per annum, defining the word "wagon" as used in this Act, prescribing the form of license, and fixing a penalty.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. From and after the effective date of this Act and annually thereafter, there is hereby imposed on each wagon or other vehicle used in the selling by wholesale of petroleum, gasoline, lubricating or other oils, or derivatives of petroleum, or any wagon or other vehicle used in transporting such oils or petroleum derivatives, a license fee of Twenty five Dollars ($25.00) per vehicle for each county in which each wagon is so used.

§ 2. The word "wagon" as used in this Act shall include any vehicle used in the transportation or wholesaling of lubricating or other oils or petroleum or gasoline or petroleum derivatives, regardless of its motive power, or whether it is propelled on wheels, skis, runners, or rollers, or whether it depends on gravity, combustible engines, or muscular power as its means of locomotion.

§ 3. The license herein imposed shall be granted by the clerk of the county court of the ccounty in which the business is proposed to be conducted or has its situs and shall be issued in writting on a blank form with stub and duplicate attached to each, to be numbered consecutively, and to be prepared by the Commissioner of Finance and furnished to each county clerk from time to time as may be necessary for use in his office.

§ 4. The following shall be the form for the license, duplicate and stub as herein required:

Stub No. ..... $.....

License issued to .....,
by which ..... is authorized to .....,
until the ..... day of ....., 19.....,
Amount of Tax, $....., issued this ..... day of .....,
19.....

Clerk ..... County Court

..... (PERFORATED LINE) .....

Duplicate No. ..... $.....

This is to certify that, on the ..... day of .....,
19....., license was granted to .....,
by which ..... is authorized to .....
until the ..... day of ....., 19....., on the
payment of $..... to me.

This, the ..... day of ....., 19.....

Clerk ..... County Court

..... (PERFORATED LINE) .....

Original No. .....

This is to certify that on the ..... day of .....,
19 ....., license was granted to ....., by
which ..... is authorized to ..... until the
day of ....., ..., 19.....

This, the ..... day of ....., 19.....

Clerk ..... County Court

After the payment of the tax herein imposed, any operator of any such wagon or vehicle shall post in a conspicuous place, his duplicate receipt for the payment of this tax, as in the above form.

Any delinquency in the payment of this tax shall be collected as other delinquent taxes are now collected.

§ 5. The Commissioner of Finance shall keep a strict account against each county clerk of the bank licenses furnished them respectively, and it shall be the duty of each clerk,

when he shall have used all the blanks furnished by the Commissioner of Finance at any one time to transmit to the Commissioner all stubs of such blanks; and, on the retirement from office of any county clerk, he shall transmit to the Commission all blanks not used by him, together with all stubs of blanks which have been used.

§ 6. When such license is granted, the county clerk shall fill up the original stub. The original he shall deliver to the person to whom it is granted, and shall, within two days thereafter, forward the duplicate to the Commissioner of Finance, who shall charge the amount of the tax to him, and the clerk shall, once in each month, pay the license tax collected into the State Treasury; and said clerk, as compensation for his services, shall be allowed five per cent commission on all license tax collected and accounted for by him.

§ 7. No clerk shall issue any license except on blanks furnished to him by the Commissioner of Finance, and under the seal of the court; nor shall any license be granted for a longer term than one year, nor for a less period, except as hereinafter provided; nor shall any license be transferable, except as provided herein.

§ 8. No license shall be valid or confer any authority unless the same be issued on blanks furnished for that purpose by the Commissioner of Finance.

§ 9. All applicants for license shall state the county, city or town, and place therein where it is proposed to carry on the business and the license shall specify the place where the business is to be conducted, and no one but the person, firm, association, or corporation named in the license shall exercise the privilege granted, unless it is otherwise provided; nor shall the privilege granted be exercised at any other place than that mentioned in the license.

Whenever any person to whom the license has been granted and who has paid for same shall die or sell his stock or place of business before the expiration of the license, the

Commissioner of Finance may renew the license to the personal representative or widow of the deceased or purchaser of the place of business without the payment of any additional tax for the unexpired period. The application for the renewal and the granting thereof shall be deemed completed when endorsed by the county court clerk granting the license or his successor, under authorization of the Commissioner of Finance, said endorsement to contain the name of the person, firm, corporation or association to whom the license was renewed, as a substitute for the original licensee.

§ 10. Any person, firm, association or corporation who shall engage in any business, or sell, or offer to sell, any article on which a license is required, before procuring the license and paying the tax thereon, as required by law, shall be deemed guilty of a misdemeanor and, upon conviction, be fined not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) for each offense unless otherwise specially provided.

§ 11. All laws or parts of laws in conflict herewith, are, to the extent of such conflict, hereby repealed.

By same.

H. B. 265. An Act to appropriate additional funds out of the General Expenditure Fund to the Division of Publicity of the Department of Conservation for the fiscal years ending June 30, 1941, and June 30, 1942.

Said bill is as follows, viz.:

WHEREAS, advertising of the beauties, landscapes, and natural scenery which abound in the Commonwealth of Kentucky is and has been insufficient, and

WHEREAS, historical points of interest likewise are numerous in Kentucky, and advertising thereof has been insufficient, and

WHEREAS, by the advertising of all of these splendid and attractive historical points and natural beauties will, by

an extensive program of advertising, attract tourist trade and traffic within our State, and as a consequence thereof will add to the income of all artisans, tradesmen, and business of every description within our State; now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby appropriated out of the General Expenditure Fund to the Division of Publicity of the Department of Conservation, for the fiscal year ending June 30, 1941, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky, 1940 Regular Session, known as House Bill No. 264, and entitled:

"AN ACT to license the operation of oil wagons selling or transporting petroleum, gasoline, lubricating or other oils by retail, or any derivatives of petroleum by retail, fixing a license for the operation of such wagons at $30.00 per annum, defining the word 'wagon' as used in this Act, prescribing the form of license, and fixing a penalty."

§ 2. There is hereby appropriated to the Division of Publicity of the Department of Conservation, for the fiscal year ending June 30, 1942, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky, 1940 Regular Session, known as House Bill No. 264, and entitled:

AN ACT to license the operation of oil wagons selling and transporting petroleum, gasoline, lubricating or other oils by retail, or any derivatives of petroleum by retail, fixing a license for the operation of such wagons at $30.00 per annum, defining the word 'wagon' as used in this Act, prescribing a form of license, and fixing a penalty."

By Mr. Walters.

H. B. 266. An Act to repeal, amend and re-enact Section 1061a-1, Carroll's Kentucky Statutes, 1936 edition, relating to a stenographer, or Clerk of County Judges.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1061a-1 of Carroll's Kentucky Statutes 1936 Edition be repealed, amended and re-enacted so that said section shall read as follows:

That in all Counties in this Commonwealth, there is hereby created the office of Stenographer, or Clerk to the County Judge. The said Stenographer, or Clerk may be appointed by the County Judge for a term of four (4) years, but may be removed at any time by said County Judge.

The salary of said Stenographer, or Clerk, is to be fixed and paid as provided for by Section 1061a-4, Carroll's Kentucky Statutes, 1936 Edition.

By Messrs. Wagner and Hunnicutt.

H. B. 267. An Act relating to the Unfair Practices Act; and amending and creating in the Department of Business Regulations a Division to be known as the Unfair Trade Practices Division.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4748h-3 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) No person engaged in business within the state shall sell, offer for sale or advertise for sale any article or product, or service or output of a service trade, at less than the cost

thereof to such vendor, or give, offer to give, or advertise the intent to give away any article or product, or service or output of a service trade for the purpose of injuring competitors and destroy competition.

When a trade, business or industry has complied with Section 4748h-15, subsection two (2) and seven (7) of this Act the cost shall be the set markup which is to be added to the invoice cost.

(2) "Cost" as applied to production includes the cost of raw materials at invoice cost less all trade discounts, except customary discount for cash within a period of 90 days, or replacement whichever is lower, labor and all overhead expenses of the producer.

(3) "Cost" as applied to distribution as a retailer means the invoice cost less all trade discounts, except customary discounts for cash within a period of 30 days, or replacement cost, whichever is lower, labor and all overhead expense of the retailer.

(4) "Cost" as applied to distribution as a wholesaler means the invoice cost less all trade discounts, except customary discounts for cash within a period of 30 days, or replacement cost, whichever is lower, labor and all overhead expense of the wholesaler.

(5) "Cost" to producer, retailer or wholesaler means bona fide cost. Purchases made by producer, retailer or wholesaler at prices which cannot be justified by prevailing market prices in the usual and ordinary channels of trade in the locality or vicinity in which the articles were purchased shall not be used in determining cost, then the prevailing market cost must be used.

(6) "Replacement Cost" means the cost per unit at which the merchandise sold or offered for sale could have been bought by the seller at any time within the 90 days for the producer, and the 30 days for the retailer or wholesaler prior to the date of sale or the date upon which it is offered for sale

by the seller if bought in the same quantity or quantities as the seller's last purchase of the said merchandise.

(7) "Cost of Doing Business" or "Overhead Expense" means all costs of doing business incurred in the conduct of such business including labor, salaries of executives and officers, rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery costs, credit losses, all types of licenses, taxes, insurance and advertising.

(8) The labor costs to a trade, business or industry shall be disregarded when below the prevailing wages ordinarily charged within the locality or vicinity, then the prevailing wages ordinarily charged must be used.

(9) "Cost of Labor" means prevailing wage scale in the trade in which such person is engaged for the locality or vicinity in which he is doing business. Where persons are performing such services without compensation such services shall be charged as an expense of the business in which it is rendered at the rate of the wage for services rendered prevailing at the time of the service and the place where rendered.

(10) "Markup" means a markup to cover a proportionate part of the cost of doing business. The markup may be set at a certain percentage based on the average cost of doing business or overhead expense as defined in this Act.

(11) The practice of using any article or product as a "Loss Leader" is prohibited. "Loss Leader" means any article or product sold at less than cost, as herein defined, to induce, promote or encourage the purchase of other merchandise, which may have the tendency or capacity to mislead or deceive purchasers or prospective purchasers, or which diverts trade from or otherwise injures competitors.

(12) The pohibitions of this Section shall embrace any scheme of special rebates, collateral contracts or any device of any nature whereby a sale is effected in violation of the spirit and intent of any of the provisions of this Act.

§ 2. Section 4784h-5 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

In any injunction proceeding or in prosecution of any person as officer, director or agent it is sufficient to allege and prove the unlawful intent of the firm, person or corporation for whom or which he acts.

§ 3. Section 4748h-10 of Carroll's Kentucky Statutes, 1936, edition, is amended to read as follows:

Any person damaged or who is threatened with loss or injury by reason of a violation of this Act may maintain an action to obtain injunctive relief against any damage or threatened loss or injury by reason of the violation. Upon the third violation of any of the provisions of this Act the Commonwealth's Attorney in the district shall institute proper proceedings in Equity to prevent and restrain such violations.

§ 4. Section 4748h-11 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any person who violates any provision of this Act shall for the first offense be fined ten dollars; for the second offense twenty-five dollars, and for a subsequent offense not less than fifty dollars nor more than five hundred dollars.

§ 5. A new section is created to be numbered Section 4748h-15, and read as follows:

(1) There is created in the Department of Business Regulation a division to be known as The Unfair Trade Practices Division. The commissioner of Business Regulation or a subordinate of the Department designated by him shall be the head of the division.

(2) On the application of a majority of the persons engaged in a particular trade, business or industry in any particular locality in the state, or upon the application of an association or organization, whose members constitute a majority of the persons engaged in a particular trade, business or industry in a particular locality in this state, the Commissioner of Business Regulation may appoint a survey board for that trade, business or industry in the particular

locality. The members of the Board shall be appointed from a list of not less than twelve persons engaged in that trade, business or industry in that locality, which list shall be submitted by the group making application for the appointment of the Board.

(3) Three members of the Board shall serve for a period of one year, and three for a period of two years. The members to serve for each period shall be designated by the Commissioner, their successors shall be appointed from a similar list submitted in the same manner as the list from which the original appointments are made.

(4) On application by a group who would be entitled to have a Board appointed asking that the Board be dissolved, the Board shall be dissolved by order of the Commissioner. Failure to submit a list of names for appointment of the successors to members of a Board whose terms have expired shall be treated as an election to discontinue the Board.

(5) The members of a Board appointed under this Act shall receive no compensation from the state but the members of the particular trade, business or industry in the particular locality for which the Board is appointed may provide funds to defray the expenses of the Board subject to the approval of the Commissioner.

(6) The Commissioner of Business Regulation shall determine what constitutes a locality within the meaning of this Act, and shall determine whether or not the persons making application for the appointment of the Board constitute a majority, or an association, or organization representing a majority of those engaged in the particular trade, business or industry in the particular locality.

(7) Each survey Board appointed under this Act shall supervise the establishment of a trade cost survey in the particular trade, business or industry in the particular locality for which they are appointed subject to general rules and regulations made by the Commissioner, and may issue stand-

ards to be used as a basis for such survey. Upon the establishment of the trade cost survey the Board shall determine and establish a markup to cover a proportionate part of the cost of doing business as defined in Section 4748h-3. The trade cost survey when completed by establishment of the markup shall be submitted to the Commissioner of Business Regulation, and upon his approval shall constitute the recognized standard of cost for the particular business, trade, or industry in that particular locality.

(8) In any action or proceeding against any person arising out of a violation of this Act the recognized cost survey and markup shall be prima facie evidence of the cost of doing business of the person complained against within the meaning of Section 4748h-3.

By Mr. Vansant.

H. B. 268. AN ACT relating to the distribution of real estate of persons who die intestate

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever any court in this Commonwealth refers to any commissioner or commissioners the real estate of any person who dies intestate for the purpose of survey and allotment, the land shall be divided by such commissioner into parcels, corresponding in value to the percentage that each heir is entitled to inherit under existing laws. When such division has been made, these plots shall be numbered, and those of equal or the same inheritance shall, by lot conducted in the presence of the county judge, obtain their distributable share in this matter: The county judge shall place in a hat slips of paper numbered corresponding to the numbers on the plat submitted to the commissioner. Those persons of equal inheritance shall draw from the hat a number, which shall then

and there correspond to a number on the plat, and that number shall determine that portion of the whole inherited by the heir.

Nothing in this Act shall prevent the voluntary exchange of numbers drawn by the heirs of the intestate.

§ 2. All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Hunnicutt.

H. B. 269. An ACT authorizing Fiscal Courts in counties containing cities of the Second Class to appoint a collector of dog license, fixing his fees and defining his duties

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Fiscal Court in Counties containing cities of the Second Class, upon written request from the Sheriff and County Tax Commissioner of said Counties, are hereby authorized to appoint a collector of dog license.

§ 2. That when said dog license collector is appointed as hereinafter provided he shall perform the duties as is required to be performed by the Sheriff and County Tax Commissioner by Chapter 1 of the Acts of 1930, now Section 68 B-1 to Section 68 B-38 inclusive of the Kentucky Statutes, Carroll's Edition and for the purpose of performing said duties, he is hereby given the same authority as is vested in the Sheriff and Tax Commissioner by said Statute and when the Fiscal Court in Counties containing cities of the Second Class appoints a dog license collector, the Sheriff and Tax Commissioner will not be required to perform the duties, nor shall they receive said fees as is required by the Statute above referred to.

§ 3. The collector of dog license shall be entitled to thirty (30%) per cent. of the fees collected from the said dog license in lieu of all other fees or compensation fixed by the Act above referred to, and he will make a report to the County

Auditor or County Clerk, as directed by the Fiscal Court each month, showing the number of licenses issued and turn over said funds which he has collected, less thirty (30%) per cent. of same by paying six per cent. of the total amount collected to the Commissioner of Agriculture, and the balance to the County Treasurer, to be credited to the live stock fund as is provided by said Statute.

§ 4. The collector of dog license shall execute bond in the sum of Twenty-five Hundred ($2500.00) Dollars to the Commonwealth of Kentucky for the use and benefit of the County so appointing him to secure it against any loss for any money so collected by the said Collector that may be in his possession belonging to the said County or against any damage which he may cause said County by reason of any of his unlawful acts.

§ 5. The dog license collector appointed by the Fiscal Court as herein prvoided for shall serve in that capacity until the regular July 1941 term of the Court, at which time the Court will appoint a dog license collector for a period of two (2) years and each succeeding collector of dog license shall hold his office for a period of two years but said Fiscal Court may remove said dog license collector at any time by a majority vote of said members of the Court, with or without cause.

§ 6. Due to the fact that owners of dogs are required to secure a license on or before January 1st of each year and that in some Counties very few dog licenses have been issued and the law has been practically ignored by the owners and harborers of said dogs and the County officials whose duties it is to enforce same, that there is now declared to exist an emergency and this Act shall become effective as soon as same is passed and approved according to law.

By Mr. Barry.

H. B. 270. AN ACT providing for the appointment of an auditor and an assistant auditor for fiscal courts in counties

containing cities of the first class; fixing the salaries of such officers; providing their terms of office and for such officers to execute bond with surety for the faithful performance of their duties; and authorizing the fiscal court to employ an independent firm of certified public accountants to make an annual audit of all county records.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Fiscal Court of each county in the Commonwealth in which there is located a city of the first class may have an auditor and may have an assistant auditor, whose duty it shall be to make regular audits of all accounts and records of the fiscal court and of any and all other governmental agencies, boards, divisions, or commissions whose revenue is provided in whole or in part from funds levied or appropriated from or through such fiscal court, to cause correct accounts and records to be kept of all receipts and disbursements of public funds of the county, to make periodical reports as required by the fiscal court, and such other related duties as may be required of them by the fiscal court.

§ 2. The auditor and assistant auditor shall be appointed by the fiscal court and shall hold office at the pleasure of said court. The auditor shall receive an annual salary not exceeding Thirty-six Hundred Dollars, ($3,600.00), which salary shall be fixed by the fiscal court and paid in monthly installments out of the county levy. The assistant auditor shall receive an annual salary not exceeding Three Thousand Dollars ($3,000.00), which salary shall be fixed by the fiscal court and paid in monthly installments out of the county levy. Before said auditor and assistant auditor enter on the duties of their respective offices, each shall execute bond with an incorporated surety company, authorized and qualified to become surety on bonds in this State or with at least two

solvent and responsible individuals as surety, approved by the fiscal court that he will well, truly and faithfully perform and discharge all and every duty of said office. Said court shall fix the amount of the bond to be executed by said auditor in the sum of not less than Three Thousand Dollars ($3,000.00) and the amount of the bond to be executed by said assistant auditor in a sum of not less than Two Thousand Dollars ($2,000.00).

§ 3. The fiscal court may, in addition to the audits made by the auditor and assistant auditor provided for herein, employ an independent firm of certified public accountants to have the accounts of all county offiers audited not oftener than once in any fiscal year.

By Mr. Vance.

H. B. 271. AN ACT relating to garnishment on judgments in personam.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

A new section of the Civil Code of Practice is created, to be numbered section 194a and to read as follows:

(1) Any person in whose favor a final judgment in personam has been entered in any court of record of this state may, upon filing affidavit in the office of the clerk of the court in which the judgment was entered, showing the date of the judgment and the amount due thereon, and that one or more named persons hold property belonging to, or are indebted to, the judgment debtor, obtain an order of garnishment directed to the sheriff, with as many copies as the plaintiff may direct, requiring him to summon the garnishees named in the affidavit to answer on the return day of the order,

and to make due return thereof. The order shall be made returnable as an order of arrest is directed to be returned.

(2) The judgment plaintiff shall not be required to execute bond to obtain the order.

(3) The order of garnishment shall be served on the persons named as garnishees in the manner provided in subsection 3 of section 203 of the Civil Code of Practice, and in addition a copy thereof shall be served on the judgment debtor.

(4) The judgment debtor may, on the return day, appear and claim the exemption of any property or debt that is exempt from execution, and on proof of exemption the garnishment shall be discharged as to the exempt property or debt.

(5) If the court finds that the garnishee was, at the time of service of the order upon him, possessed of any property of the judgment debtor, or was indebted to him, and the property or debt is not exempt from execution, the court shall order the property or the proceeds of the debt applied upon the judgment.

(6) Subsequent orders of garnishment against the same or other garnishees may be issued in the same manner until the judgment is satisfied.

(7) The provisions of sections 200 to 270 of the Civil Code of Practice shall, as far as applicable, govern proceedings under the order.

By Mr. Leslie.

H. Res. 38. Resolution authorizing and permitting Bailey Mosely to sue the Commonwealth of Kentucky and/or the Department of Highways.

Said resolution is as follows, viz.:

WHEREAS, on or about the 12th day of August, 1939, on a public highway commonly known as Left Beaver Creek

Road, Bailey Mosely, Floyd County, suffered serious and permanent personal injuries, and the car which he owned and was operating at that time was completely demolished, and

WHEREAS, said personal injuries and property damage was brought about by the alleged gross negligence and carelessness of one Ralph Allen, employee of the Department of Highways and/or the Commonwealth of Kentucky while in the conduct of the business of the Commonwealth of Kentucky: therefore

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. Bailey Mosely be and is hereby authorized and permitted to file suit against the Commonwealth of Kentucky and the Department of Highways, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the Department of Highways, or either, for such damage, personal or property, if any there be, arising from such injuries as he may have suffered, if any, or such destruction of his said automobile, by reason of the carelessness or negligence of the Commonwealth of Kentucky, its agents or employees.

Said suit shall be for any amount not exceeding the sum of Four Thousand ($4000.00) Dollars and, in the event any judgement is recovered by the said Bailey Mosely in said suit for injuries to himself or his property, or same is compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer and paid out of the general fund.

By Mr. Easley.

H. Res. 39. A RESOLUTION, authorizing M. Carl Price of Scott County, Kentucky, to institute suit against the Commonwealth of Kentucky and State Highway Commission of Kentucky, or either of them, and the Statutes of Limita-

tions not to apply until and from the passage of this resolution.

Said resolution is as follows, viz.:

WHEREAS, on the 8th day of March, 1938, M. Carl Price and his wife, India Price, executed and delivered to the Commonwealth of Kentucky a deed of conveyance for a right-of-way along their farm on the Georgetown-Williamstown road in Scott County, Kentucky, for and in consideration that the Commonwealth of Kentucky would replace, grade and surface his driveway and entrance and make a fill for said driveway and entrance as good, or better, than the driveway and entrance and fill there at the time, and

WHEREAS, the Commonwealth of Kentucky and State Highway Commission of Kentucky have widened said highway and raised the fill some eight or nine feet opposite the driveway and entrance to the farm and home of M. Carl Price, and have failed and refused to carry out their agreement, as above set out, and have the fill, entrance and driveway in a dangerous, and unsafe and insecure condition and as a result thereof have damaged the farm and property of M. Carl Price to the extent of $2,500.00, and

Now, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That M. Carl Price be, and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and State Highway Commission of Kentucky, or either, in the Scott Circuit Court, for such damages as he may have suffered by reason of said Commonwealth of Kentucky and State Highway Commission of Kentucky, failing to replace, grade and surface his driveway, fill and entrance, as they agreed to do, as consideration for said strip of land on the Georgetown-Williamstown highway in Scott County, Kentucky, not to exceed, however, the sum of $2,500.00, and in the event

judgment is recovered, or same is compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer, and paid out of the General Fund. The case may be settled or compromised, with the approval of the Attorney General of Kentucky.

By Mr. Brown.

H. Res. 40. A RESOLUTION appropriating and authorizing the payment to C. L. Alderson, of Jefferson County, Kentucky, the sum of $835.78 for indemnity for cattle destroyed by order of the State Live Stock Sanitary Board.

Said resolution is as follows, viz.:

WHEREAS, C. L. Alderson, of Jefferson County, Kentucky, was the owner of certain cattle during the month of August, 1939, which cattle were destroyed by order of the State Live Stock Sanitary Board during said fiscal year under the provisions of Section 63c-7 of Carroll's Kentucky Statutes, 1936 Edition; and

WHEREAS, the State Live Stock Sanitary Board awarded indemnity to the said C. L. Alderson to be paid by the Commonwealth in the sum of Eight Hundred and Thirty-five Dollars and Seventy-eight Cents ($835.78); and

WHEREAS, the said C. L. Alderson has not been paid the sum awarded to him as indemnity because the funds appropriated for such purposes by the General Assembly for the fiscal year ending June 30, 1940, are insufficient and sums appropriated for subsequent fiscal years could not be lawfully expended for the purpose of reimbursing the said C. L. Alderson; and

WHEREAS, the State Veterinarian has approved the payment of the hereinabove mentioned amount to replace the cattle so destroyed, now, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is appropriated out of the general funds of the Commonwealth the sum of Eight Hundred and Thirty-five Dollars and Seventy-eight Cents ($835.78) for the purpose of paying indemnity due to C. L. Alderson, of Jefferson County, Kentucky, and the Department of Finance is directed to draw a warrant on the Treasurer payable to the said C. L. Alderson for that purpose.

By Mr. Shehan.

H. Res. 41. Resolution authorizing A. D. Coleman, Lennie G. Coleman, James R. Coleman by his father and next freind, A. D. Coleman, Woodrow Potter and Maxie Stiltner, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, A. D. Coleman, Lennie G. Coleman, James R. Coleman, Woodrow Potter and Maxie Stiltner were injured on or about the 21st day of June, 1938, in an automobile collision on U. S. Highway No. 23, in Pike County, Kentucky, which collision and injuries were caused by the dangerous and unsafe condition of said highway at the place of said collision, and, whereas, the maintenance employees of the Department of Highways had been working on said highway, leaving the same unguarded and unprotected, and without warning signs being posted advising the traveling public of the dangerous condition thereof, now, therefore:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That A. D. Coleman, Lennie G. Coleman, James R. Coleman, by his father and next friend, A. D. Coleman, Woodrow Potter and Maxie Stiltner, be and they and each of them are hereby authorized and permitted to sue the Com-

monwealth of Kentucky for such damages as they, or either of them, may have suffered, if any, by reason of the injuries caused by the negligence, if any, of the agents, servants or employees of the Commonwealth of Kentucky, and in the event judgments are recovered in said actions, the amounts so recovered shall be paid by the Treasurer of the Commonwealth of Kentucky, from the General Fund, on a warrant issued by the Commissioner of Finance.

By same.

H. Res. 42. RESOLUTION authorizing Mose Ramsey, Administrator of the estate of Rose Ramsey, deceased, Mose Ramsey, Administrator of the estate of Crate Ramsey, deceased, and Mose Ramsey, Administrator of the estate of Walter Ramsey, deceased, and Rosa Adkins, Administratrix of the estate of Lee Adkins, deceased, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, the Department of Highways of the Commonwealth of Kentucky, in the reconstruction and surfacing of a section of the Pikeville-Williamson Highway, in Pike County, Kentucky, in the years 1938 and 1939, left an embankment on said highway, approximately twenty feet high, which embankment was unguarded and unprotected and without warning signs being posted, advising the traveling public of the condition thereof; and, whereas, Rose Ramsey, Crate Ramsey, Walter Ramsey and Lee Adkins were killed on the 4th day of July, 1939, when the automoblie in which they were riding went over said embankment, now, therefore:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Mose Ramsey, Administrator of the estate of Rose Ramsey, deceased, Mose Ramsey, Administrator of the estate of Crate Ramsey, deceased, and Mose Ramsey,

Administrator of the estate of Walter Ramsey, deceased, and Rosa Adkins, Administratrix of the estate of Lee Adkins, deceased, be, and they and each of them are hereby authorized and permitted to sue the Commonwealth of Kentucky for damages, if any, to the estates of Rose Ramsey, Crate Ramsey, Walter Ramsey and Lee Adkins, by reason of their deaths, caused by the negligence, if any, of the Commonwealth of Kentucky, or its agents, servants or employees, and in the event judgments are recovered in said actions, the amounts so recovered shall be paid by the Treasurer of the Commonwealth of Kentucky from the General Fund, on a warrant issued by the Commissioner of Finance.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 81. An Act relating to duly licensed and practicing attorneys at law, in counties containing cities of the first or second class, and providing for compensation for said attorneys etc.

H. B. 40. An Act to repeal sec. 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3480E-6, 3480E-7, 3480E-8, 3480E-9, 3480E-10, 3480E-11 and 3480E-12 establishing a civil service commission in cities of the third class.

H. B. 135. An Act relating to county roads and providing how such roads shall be named etc.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. J. Lee Moore moved that House Bills Numbers 43 and 96 be passed for the present and that said bills retain their place in the Orders of the Day.

Said motion was agreed to.

A message was received from the Senate, announcing that they had passed bills which originated in that body, entitled:

S. B. 48. AN ACT to amend and reenact sections 3290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, providing for the government of cities of the third class and authorizing the acquisition, establishment and maintenance of public cemeteries, parks, squares, avenues, promenades and fountains, and authorizing the revocation of ordinances under which the foregoing have been or may be created, and authorizing a change of use of such lands and providing for the cost, maintenance and regulation thereof and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be amended and reenacted so that as amended and reenacted it shall read as follows:

"Section 3290-33. To acquire, establish and maintain public cemeteries, parks, squares, avenues, promenades and fountains, either within or without the city; and authorizing said cities of the third class, by the enactment of appropriate ordinances, to repeal ordinances that heretofore have been or hereafter may be enacted creating such public cemeteries, parks, squares, avenues, promenades and fountains where the same were not acquired or given to the city for such specific purposes, and authorizing said cities to provide, by

appropriate ordinances, for the use of said lands, easements, buildings and appurtenances thereon or appertaining thereto for other purposes; to make all necessary appropriations for the cost and maintenance of same, and to make regulations for the use, management and direction thereof."

§ 2. That whereas, many cities of the third class have by ordinances established public cemeteries, parks, squares, avenues, promenades and fountains and have subsequently determined that they were financially unable to properly improve, operate and maintain the same; and,

Whereas, the growth and expansion of many cities of the third class necessitate a change of use of the land to purposes other than those provided in former ordinances that have heretofore been enacted, and because the public good demands that such power and authority be vested in cities of the third class to remedy such conditions as quickly as possible, an emergency is hereby declared to exist and this Act shall take immediate effect when passed and approved by the Governor.

S. B. 53. An Act to amend section 429 of the Criminal Code of Practice, and to provide for appeals from judgments upon trials under writs of habeas corpus.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 429 of the Criminal Code of Practice is amended to read as follows:

429. The judgment upon a trial under a writ of habeas corpus shall not prevent the issuing of subsequent writs for the same cause, nor be given in evidence on the trial under a subsequent writ, but if an appeal was taken from the previous judgment that fact may be given in evidence and shall bar a trial under the subsequent writ. No officer, except

a circuit judge, who has tried a writ shall try a subsequent writ issued for the same cause.

§ 2. Two sections are added to the Criminal Code of Practice to be numbered and read as follows:

429-1. *Appeal.* Any party to a trial under a writ of habeas corpus may appeal to the Court of Appeals by filing with the clerk of the Court of Appeals, within ten days after the entry of the judgment, the original record and a transcript of the evidence, together with a notice of appeal, which notice shall be served on the other parties at least two days before the appeal is filed. Upon the filing of the appeal the clerk shall immediately deliver the papers to the Chief Justice, and the Court shall proceed immediately to hearing thereof and complete the same as soon as practicable. If the Court is in vacation at the time the appeal is filed, the Chief Justice shall call together a majority of the judges of the Court who shall hear and determine the appeal as if in regular session.

429-2. *Supersedeas; costs.* If the judgment appealed from orders the release of the person detained, any party may have the judgment stayed until the appeal is filed by notifying the judge or justice rendering the judgment that he intends to appeal and upon complying with such terms as to bond or otherwise as the judge or justice deems proper for the security of the person detained. The Court of Appeals may continue, modify or set aside the stay pending the appeal. The appellant may be required to give security for costs.

S. B. 28. AN ACT to change the time of holding the terms of Circut Court in the Thirty-seventh District.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the time of holding terms of the Circuit

Court in the Thirty-seventh Judicial District shall be and are hereby fixed as follows, to wit.:

Carter County, at Grayson, on the third Monday of February and continue for twelve judicial days; second Monday of April and continue for twelve juridical days; second Monday of June and continue twelve juridical days; fourth Monday of August and continue for twelve juridical days; third Monday of October and continue twelve juridical days; fourth Monday of November and continue twelve juridical days.

Elliott County, at Sandy Hook, on the second Monday of March and continue twelve juridical days; third Monday of July and continue for twelve juridical days; first Monday of October and continue for twelve juridical days.

Morgan County, at West Liberty, on the fourth Monday of March and continue twelve juridical days; second Monday of August and continue twelve juridical days; second Monday of November and continue twelve juridical days.

§ 2. In order that no term of court as now fixed by law be interferred with while court is in session and so that it may be known in advance when said Act shall be in effect, it is provided that this Act shall be in effect on and after the first day of May, 1940.

§ 3. All laws and parts of laws in conflict herewith are hereby repealed.

S. B. 56. AN ACT to protect telegraph and telephone lines, wires, cables and property appurtenant thereto; to prevent the tapping or the making of any connection with any telegraph or telephone line, or to read, take or copy any message intended for another and to prevent the obstruction or delay in the sending or delivery of any message; to make it a penalty for any violation of this act and fixing a penalty for such violation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That any person who shall willfully and maliciously displace, remove, injure or destroy, any telegraph or telephone line, wire, cable, pole or conduit, belonging to another, or the material or property appurtenant thereto, or who shall willfully and maliciously cut, break, tap, or make any connection with any telegraph or telephone line, wire, cable or instrument belonging to another, or shall willfully and maliciously read, take or copy any message, communication or report intended for another, either social or business, sporting, commercial or other news reports passing over any such telegraph or telephone line, wire or cable, in this State; or who willfully and maliciously prevents, obstructs or delays by any means or contrivance whatsoever, the sending, transmission, conveyance or delivery, in this State of any message, cummunication or report by or through any telegraph or telephone line, wire or cable; or who uses any apparatus to unlawfully do or cause to be done any of the acts hereinbefore mentioned, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Fifty ($50.00) Dollars, nor more than Five Hundred ($500.00) Dollars, or imprisonment in the county jail not exceeding one year, or both in the discretion of the court or jury.

S. B. 5. AN ACT relating to executions, governing proceedings following the sale of lands under execution, providing for the recording of obligations on which executions have issued other than judgments, and repealing laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The sheriff who sells land under execution, or his deputy, or a successor of the former, shall promptly after making any such sale make a report in writing, addressed to the court from which such execution issued and filed in the clerk's office of such court, showing the authority for making such sale and the taking of all steps required by law for the making of such sale; and said sheriff shall show in his report, over his official signature, the name and, if known, the residence of the defendant or defendants in the execution whose land has been so sold.

§ 2. It shall thereupon be the duty of the clerk to issue notice to such defendant or defendants in such executions whose lands are shown to have been so sold a notice, which shall be in substance as follows:

"To .....

"You are hereby notified that the sheriff of ..... county has filed in the office of the clerk of ..... Circuit Court a report of sale, showing that said sheriff lately sold certain lands in which you have an interest, under an execution issued against you from this court; and that at the next regular term of the ..... Circuit Court said report of sale will be duly presented to the court for confirmation; and you are warned that if no exceptions be filed thereto, said report will be confirmed and the title and possession of said property adjudged from you.

"Witness my hand as Clerk of ..... Circuit Court, this ..... day of ....., 19....."

Said notice shall be issued and executed as is required in case of summons.

If, however, it appear from the sheriff's report that defendants, or any of them, are non residents, the clerk shall make a warning order against such of defendants as are non residents; and the sheriff's report shall be the only showing required for the making of such warning order. Such warn-

ing order may also be issued upon a showing made by any interested party under the conditions required for the issual of a warning order under the provisions of the Civil Code of Practice.

§ 3. It shall be the duty of the clerk to file said sheriff's report in open court at the first term of the same after the notice has been served ten days, regardless of the county in which same is served; or after the warning order, if any, has been entered for sixty days.

§ 4. Upon the filing of said report with the court, the same proceedings may be had thereon as are allowed on the filing of reports of sale by commissioners in chancery; and any interested party may by proper exceptions show such cause as may be available to him against the confirmation of such report of sale.

§ 5. If the sale be confirmed, a proper deed to the purchaser shall be made the sheriff who made the sale or his successor in office as ex officio, special commissioner of the court, for the purpose of executing deeds made by sheriffs, which deed shall be approved as other commissioner deeds are required to be approved, and the purchaser or the grantee in the deed shall be entitled to a writ of possession as against the grantors in the deed. Such proceedings being ancillary in their nature, no restitution bond shall be required in case of constructive service therein.

§ 6. If exceptions be filed, the court may in the exercise of a sound discretion, pending the hearing of such exceptions, make such orders as to the payment of the purchase money as may under the circumstance be just and reasonable.

§ 7. If exceptions be sustained, the lien of the plaintiff, if any, acquired by the issual and levy of the execution shall in proper cases be preserved; and the court shall have authority to bring in new parties and to direct a resale where necessary to preserve the rights of the parties, and to make proper

and reasonable allowances in respect to costs, either for or against any of the officers of the court, or for or against any of the parties, as may be proper under circumstances.

§ 8. Where an execution is issued on any obligation other than a judgment, it shall be the duty of the clerk issuing such execution to record such obligation upon the order book of the court, together with a certificate showing the attestation and recording of same.

§ 9. Section 1688, section 1689, section 1690, section 1691, Kentucky Statutes of 1936, and all other laws in conflict herewith, are hereby repealed.

§ 10. This act shall apply to all sales of land under execution made after the 30th day of June, 1940.

Ordered that said bills be printed and referred.

And that they had passed bills which originated in this House, entitled:

H. B. 166. An Act relating to chain stores or multiple mercantile establishments and imposing a license on such businesses for the purpose of regulating same etc.

H. B. 123. An Act relating to revenue and taxation, and repealing, amending and re-enacting Sec. 1 of Chapter 63 of the Acts of the 1938 regular session of the General Assembly.

H. B. 119. An Act to repeal, amend and re-enact Sec. 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation and more especially to the fixing of the rate of taxation on the use, sale or distribution of wine; and declaring an emergency.

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending, and re-enacting Sec.

4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision and repealing sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and declaring an emergency.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

Mr. Mollette moved that the privilege of the floor be extended to Mr. Fred Vanhoose of Paintsville, Kentucky.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 104. An Act requiring serological blood tests for syphilis on pregnant women; providing for its administration and prescribing penalties for the violation thereof.

With Committee amendments thereto.

Said bill is as follows, viz.:

WHEREAS syphilis has been found to be the cause of many stillbirths, abortions and premature labors in Kentucky, and

WHEREAS, it has been found to be a frequent cause of death in the early months of life in inherited syphilis, and

WHEREAS, it has demonstrated that the treatment of pregnant women afflicted with syphilis during their pregnancy prevents the transmission of the disease to their offspring: Now therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Every physician and surgeon, or other persons, legally permitted to engage in attendance upon a pregnant

woman in Kentucky, shall take or cause to be taken a specimen of blood, for serological test for syphilis, from such woman, as soon as he or she is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. In case the woman is in a stage of labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen then, the specimen shall be obtained within ten days after delivery. The specimen of blood shall be submitted to an approved laboratory for serological test for syphilis. The laboratory test required by this Act shall be a serological test for syphilis approved by the State Department of Health of Kentucky and made by the laboratory of the State Department of Health of Kentucky, or a laboratory approved by the State Department of Health of Kentucky. Such laboratory test, if made by the laboratory of the State Department of Health of Kentucky, shall be made without charge.

§ 2. Every physician and surgeon who takes from a woman in pregnancy, or suspected pregnancy, a blood specimen for serological test for syphilis shall so identify that specimen, when submitting it to an approved laboratory for test, that the laboratory may provide a report in triplicate on forms prepared and furnished by the State Department of Health of Kentucky, of result of such test. The original of each such report shall be sent the physician and surgeon submitting the specimen, a duplicate shall be forwarded to the State Department of Health of Kentucky not later than Saturday of the week in which the examination is made, and the triplicate shall be retained by the laboratory for its files.

§ 3. Every physician and surgeon, or other person, required to report births and stillbirths shall state on each birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis was made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which the birth or stillbirth certificate

is filed. If such a test was made, the physician and surgeon, or other person, shall state the name of the test used, the date when made and the name of the laboratory making the test; if not made, the physician and surgeon or other person shall state reason or reasons why such test was not made. In no event shall the result of the test be stated on the birth or still-birth certificate.

§ 4. Any physician and surgeon or other person legally permitted to engage in attendance upon a pregnant woman during the period of pregnancy, or at delivery, and does so engage, who fails to exercise due diligency in complying with the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one hundred ($100.00) dollars, nor less than ten ($10.00) dollars, and thirty days in jail, either or both.

§ 5. The county attorneys in the several counties in the State shall prosecute for violation of this Act.

Said amendments as proposed by the Committee are as follows, viz.:

1. Amend H. B. 105 on page 2, section 2, line 1 by inserting after the word "takes" the words "or causes to be taken"

2. Amend H. B. 104 on page 2, section 2, line 3 by inserting after the word "specimen" the words "as from a pregnant woman"

3. Amend H. B. 104 on page 2, section 2, line 4 by striking out the word "that" and substituting therefor the word "and" and strike the word "may" after the word "laboratory" and insert the word "shall"

4. Amend H. B. 104 on page 3, section 4 by striking out all of said section beginning after the word "delivery" and substituting in lieu thereof the following "and who fails to exercise diligence in complying wtih the provisions of this

Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than five ($5.00) dollars, nor more than ten ($10.00) dollars."

Said amendments were each and severally agreed to.

Mr. Bolling moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	James W. Chapman	Eugene Gough
Robert E. Barry	S. B. Chrisman	Van Y. Greene
Wm. T. Beard	John Coulter	Ralph C. Hamilton
Alvis S. Bennett	John H. Cox	C. L. Hammons
Sterling B. Blake	W. Q. Daniel	T. H. Hickey
Douglas T. Bolling	Stanley S. Dickson	Chester Huffines
J. F. Bosworth	Forest C. Easley	W. H. Hunt
W. S. Brim	D. E. Edwards	J. B. Jarboe, Jr.
C. J. Bronston	Harry W. Ennis	Chas. X. Jones
Gus A Brooks	R. R. Ernst	John S. Juett
Randolph A. Brown	Carlos Fallis	William K. King
Haynes Carman	Cecil Florence	W. A. Lamkin, Jr.
Charles M. Carter	Wayne Freeman	Edward Leslie

Frank C. McElwain	Thomas Rigdon	T. M. Swope
Norris McPherson	Lyman Roll	Otis C. Thomas
Stanley C. Moebus	Jack Savage	Walter R. Vansant
Davis Moore	Carl Scheben	Porter Wallace
J. Lee Moore	Leon J. Shaikun	Harry F. Walters
C. Homer Neikirk	Ray O. Shehan	Henry Ward
Carl D. Perkins	Faust Y. Simpson	H. L. Waterfield
H. O. Porter	G. C. Springate	Otis White
Kleber F. Price	Ray J. Stengel	James H. Woods

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Those who voted in the negative were—

Clyde S. Howard	C. C. May	Henry Stewart
John M. Hunnicutt	W. H. Riley	Erna E. Tyra
W. Paul Lyon	J. Claude Stacy	S. J. Wagner

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Resolved that the title thereof be as aforesaid.

Mr. Bolling moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Vance announced that he would have voted in the affirmative on said bill if he had been present in the House Chamber when the vote was taken thereon.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 86. AN ACT relating to fish and game and providing a method for raising additional funds for the purchase and propagation thereof through voluntary donations and prescribing the compensation of county clerks and the Game and Fish Commission in relation thereto, and providing special tags and awards in recognition of donors to such fund.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The State Game and Fish Commission of Kentucky is hereby authorized, directed and required to set up, receive, maintain and administer a special fund to be known as "The Kentucky Sportsmen's Voluntary Fund", and to be comprised of gifts and donations of Kentucky Sportsmen and other interested persons. The term "Commission" as used in this Act shall mean the Game and Fish Commission of Kentucky, or the Division of Game and Fish of the Department of Conservation of Kentucky, or the director of said division, whichever meaning best expresses the purport of this Act and conforms to the language of existing law.

§ 2. Any Kentucky sportsman or other interested person may make voluntary contributions or donations to the Commission for the use and benefit of said fund, but in order to encourage such donations and provide a systematic plan for building up such fund, it shall be the duty of the Commission to design, print and furnish neat and attractive metal license tags of a special design to be issued to purchasers of regular hunting and fishing licenses who also make donations to said fund. Such tags shall be issued in two series, one for hunters and the other for fishermen, and each series shall be of three grades in addition to the regular tags which are now issued to buyers of licenses at the regular price as now fixed by law. These special tags shall be issued in token of contributions of donations of $1, $4, or $9, as the case may be, to said fund, such special tags being issued in lieu of the regular license tags to buyers who, in addition to paying the regular license fees, also make donations to said funds. The Commission shall supply such tags to the county clerks of the various counties of the State as their demands may require.

§ 3. It shall be the duty of all county clerks of this state, when selling either hunting or fishing licenses, to call the attention of all buyers of such licenses to the provisions of this

Act and offer them an opportunity to contribute to "The Kentucky Sportsmen's Special Fund", as herein defined, and obtain the special license tags or badges herein provided for. County clerks shall explain that the licensee has the option of buying licenses at either $1, $2, $5, or $10, and he will receive a badge or tag indicating the grade of license he has bought and the amount of his contribution to said voluntary fund, and that the amount so paid, over and above the regular price of the license, is a voluntary contribution to help increase and maintain the supply of fish and game in Kentucky for the benefit of all fishermen and hunters. The price of such special tags to non-resident hunters and fishermen shall be the regular price of non-resident hunting and fishing licenses, plus the amount of the voluntary donation indicated on the special tag to be issued.

§ 4. For his services in selling the special tags and collecting and remitting to the Commission the said voluntary contributions to said fund, the County Clerk shall be entitled to a commission of 10% of all such voluntary contributions so collected by him in addition to the compensation now allowed him for issuing licenses as now provided by law, and said commission shall be deducted by him when remitting his collections to the Commission. The Commission is further authorized at its discretion to set aside a sum not exceeding One Thousand ($1000) in any year, to buy appropriate prizes for the four clerks in the state who collect the largest amounts in such voluntary contributions in proportion to the amounts of money received from the regular price of such licenses sold in their respective counties. The Commission shall make such rules and regulations as it deems proper for awarding such prizes.

§ 5. Any person who purchases a Ten Dollar ($10) hunting tag, or a Ten Dollar ($10) fishing tag in each of three successive years, or three of the same kind and grade of tags in one year, shall be entitled to a hunting license,

or a fishing license, as the case may be, good during his life-time, and the same shall be issued to him together with an appropriate permanent badge upon his application to the Commission. In like manner a non-resident of Kentucky may obtain a life-time license for either hunting or fishing by buying three successive licenses at a price equal to the regular price of the non-resident's license plus Nine ($9) Dollars.

§ 6. All funds coming into the hands of the Commission for the use of said "Kentucky Sportsmen's Voluntary Fund" shall be earmarked and used for no other purpose whatsoever. After paying the necessary fees and expenses for the collection and administration of such fund said fund shall be expended as follows: So much of said fund as comes from the sale of hunting tags shall be used solely for the purchase of game for distribution. So much of said fund as comes from the sale of fishing tags shall be used solely to purchase and raise fish to be released in Kentucky waters that the Commission deems best.

§ 7. The Commission shall have power and authority to make and enforce all rules and regulations it deems necessary to carry out the provisions of this Act.

§ 8. All Acts or parts of Acts which are in conflict or inconsistent with this Act are, to the extent of such conflict or inconsistency, hereby repealed.

§ 9. If any part of this Act, or any order or rule of the Commission made or issued in pursuance of this Act, shall for any reason be adjudged, by any court of competent jurisdiction, to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to such part of this Act or such rule or order directly involved in controversy in which said judgment shall have been rendered.

Mr. Sloan offered the following amendment thereto by way of Substitute therefor, viz.:

An Act relating to fish and game and providing a method of raising additional funds for the purchase and propagation thereof through voluntary donations and prescribing the compensation of County Clerks and the Game and Fish Commission in relation thereto, and providing special licenses and awards in recognition of donors to such fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The State Game and Fish Commission of Kentucky is hereby authorized, directed and required to set up, receive, maintain and administer a special fund to be known as "The Kentucky Sportsmen's Voluntary Fund," and to be comprised of gifts and donations of Kentucky Sportsmen and other interested persons. The term "Commission" as used in this Act shall mean the Game and Fish Commission of Kentucky, or the Division of Game and Fish of the Department of Conservation of Kentucky, or the director of said division, whichever meaning best expresses the purport of this Act and conforms to the language of existing law.

§ 2. Any Kentucky sportsman or other interested person may make voluntary contributions or donations to the Commission for the use and benefit of said fund, but in order to encourage such donations and provide a systematic plan for building up such fund, it shall be the duty of the Commission to design special licenses to be issued to purchasers of regular hunting and fishing licenses who also make donations to said fund. Such licenses shall be issued in two series, one for hunters and the other for fishermen, and each series shall be of three grades in addition to the regular licenses which are now issued to buyers of licenses at the regular price as now fixed by law. These special licenses shall be issued in token of contributions or donations of $1, $5, or $10, as the

case may be, to said fund, such special licenses being issued in addition to the regular licenses to buyers who, in addition to paying the regular license fees, also make donations to said funds. The Commission shall supply such licenses to the county clerks of the various counties of the State as their demands may require.

§ 3. It shall be the duty of all county clerks of this state, when selling either hunting or fishing licenses, to call the attention of all buyers of such licenses to the provisions of this Act and offer them an opportunity to contribute to "The Kentucky Sportsmen's Voluntary Fund," as herein defined, and obtain the special licenses herein provided for. County clerks shall explain that the licensee has the option of donating either $1, $5, or $10, and he will receive a license indicating the grade of license he has bought and the amount of his contribution to said voluntary fund, and that the amount so paid, over and above the regular price of the license, is a voluntary contribution to help increase and maintain the supply of fish and game in Kentucky for the benefit of all fishermen and hunters. The price of such special licenses to non-resident hunters and fishermen shall be the regular price of non-resident hunting and fishing licenses, plus the amount of the voluntary donation indicated on the special license to be issued.

§ 4. For his services in selling the special licenses and collecting and remitting to the Commission the said voluntary contributions to said fund, the County Clerk shall be entitled to a commission of 10% of all such voluntary contributions so collected by him in addition to the compensation now allowed him for issuing licenses as now provided by law, and said commission shall be deducted by him when remitting his collections to the Commission. The Commission is further authorized at its discretion to set aside a sum not exceeding One Thousand ($1,000) in any year, to buy appropriate prizes for the four clerks in the state who collect the largest amounts

in such voluntary contributions in proportion to the amounts of money received from the regular price of such licenses sold in their respective counties. The Commission shall make such rules and regulations as it deems proper for awarding such prizes.

§ 5. Any person who makes a donation of Ten Dollars ($10) for a hunting license or Ten Dollars ($10) for a fishing license in each of five successive years, or five of them of the same kind and grade of licenses in one year, shall be entitled to a hunting license, or a fishing license, as the case may be, good during his life-time, and the same shall be issued to him upon his application to the Commission. In like manner a non-resident of Kentucky may obtain a life-time license for either hunting or fishing by buying ten successive licenses at a price equal to the regular price of the non-resident's license plus Ten Dollars, ($10) for each regular license so purchased.

§ 6. All funds coming into the hands of the Commission for the use of said "Kentucky Sportsmen's Voluntary Fund" shall be earmarked and used for no other purposes whatsoever. After paying the necessary fees and expenses for the collection and administration of such fund said fund shall be expended as follows: So much of said fund as comes from the sale of special hunting licenses shall be used solely for the purchase of game for distribution. So much of said fund as comes from the sale of special fishing licenses shall be used solely to purchase and raise fish to be released in Kentucky waters that the Commission deems best.

§ 7. The Commission shall have power and authority to make and enforce all rules and regulations it deems necessary to carry out the provisions of this Act.

§ 8. All Acts or parts of Acts which are in conflict or inconsistent with this Act are, to the extent of such conflict or inconsistency, hereby repealed.

§ 9. If any part of this Act, or any order or rule of the

Commission made or issued in pursuance of this Act, shall for any reason be adjudged, by any court of competent jurisdiction, to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to such part of this Act or such rule or order directly involved in controversy in which said judgment shall have been rendered.

Mr. Sloan moved that the Clerk of this House be directed to have said Substitute printed.

Said motion was agreed to.

Mr. Sloan moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 179. An Act to amend and re-enact Section 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statute Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statutes Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees, be amended and re-enacted so that said section as amended and re-enacted shall read as follows:

Section 1727.—A sheriff shall not be required to execute

any writ, process or summons in a civil action unless it be accompanied by the fee allowed for executing the same. If the writ, process or summons is not executed, the sheriff shall return the fee. The sheriff shall be required to keep an accurate account of all fees collected under this section and report the amount of same to the Fiscal Court for the purpose of determining the amount of his annual income.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	W. Q. Daniel	John S. Juett
J. Everett Bach	Forest C. Easley	W. A. Lamkin, Jr.
H. T. Baker	D. E. Edwards	Robert E. Lee
Robert E. Barry	Harry W. Ennis	Harvey D. Leonard
Wm. T. Beard	R. R. Ernst	Edward Leslie
Alvis S. Bennett	Carlos Fallis	W. Paul Lyon
Sterling B. Blake	T. P. Fitzpatrick	C. C. May
Douglas T. Bolling	Cecil Florence	T. B. McConnell
J. F. Bosworth	Wayne Freeman	Frank C. McElwain
W. S. Brim	Eugene Gough	Norris McPherson
C. J. Bronston	Van Y. Greene	Stanley C. Moebus
Gus A Brooks	Ralph C. Hamilton	Davis Moore
Randolph A. Brown	C. L. Hammons	J. Lee Moore
Haynes Carman	T. H. Hickey	C. Homer Neikirk
Charles M. Carter	Chester Huffines	Carl D. Perkins
James W. Chapman	John M. Humnicutt	Kleber F. Price
S. B. Chrisman	W. H. Hunt	Hobart Rayburn
John Coulter	J. B. Jarboe, Jr.	Thomas Rigdon
John H. Cox	Chas. X. Jones	Lyman Roll

Carl Scheben	J. Claude Stacy	J. Wood Vance
Leon J. Shaikun	Ray J. Stengel	Walter R. Vansant
Faust Y. Simpson	Henry Stewart	Harry F. Walters
Bruce Sloan	W. St. Clair Stuart	H. L. Waterfield
Otto Smither	Otis C. Thomas	James H. Woods
G. C. Springate	Erna E. Tyra	—74

Those who voted in the negative were—

G. Sam Milam	W. H. Riley	T. M. Swope
H. O. Porter	Jack Savage	Otis White

—6

Resolved that the title thereof be as aforesaid.

Mr. McConnell move that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 98. AN ACT repealing and re-enacting Section 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsection 2739g-34a and 2739g-34a of Baldwin's Kentucky Statutes 1938 Supplement, relating to driving a motor vehicle while intoxicated, and prescribing penalty therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsection 2739g-34a and 2739g-34a of Baldwin's Kentucky Statutes, 1938 Sup-

plement, be and the same is hereby repealed and re-enacted, so that said section as repealed and re-enacted shall read as follows:

That it shall be unlawful for any person to operate a motor vehicle, or any other kind of vehicle, upon any of the public highways of this Commonwealth while under the influence of intoxicating liquors, or while in an intoxicated condition, and for each violation of the above provision the person so offending shall be fined for the first offense not less than One Hundred Dollars ($100.) nor more than Five Hundred Dollars ($500.) and for the second and each subsequent offense he shall be fined not less than One Hundred Dollars ($100.) nor more than Five Hundred Dollars ($500.) and confined in the county jail not less than thirty days nor more than six months.

It is further provided that in addition to the aforesaid penalty the driver's license shall be revoked by the Department of Revenue or the Judge of the circuit court of the county where said offense was committed for a period of one year, but that for the first offense, and in the discretion of the Judge of the circuit court, said driver's license may be restored by requiring of said operator that he post a bond with the clerk of the aforesaid county in the sum of Five Hundred Dollars ($500.) with good sureties, to be forfeited to the Commonwealth of Kentucky in the event said operator is gulity of a second offense within two years time.

Mr. H. O. Porter offered the following amendment to said bill, viz.:

Amend H. B. 98 by inserting "Circuit Court" at the beginning of line 23 on page 2.

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. L. Hammons	Carl D. Perkins
J. Everett Bach	T. H. Hickey	H. O. Porter
H. T. Baker	Clyde S. Howard	Kleber F. Price
Wm. T. Beard	Chester Huffines	Hobart Rayburn
Sterling B. Blake	John M. Hunnicutt	Thomas Rigdon
W. S. Brim	W. H. Hunt	Carl Scheben
Gus A Brooks	Chas. X. Jones	Bruce Sloan
Haynes Carman	John S. Juett	Otto Smither
John Coulter	William K. King	G. C. Springate
John H. Cox	W. A. Lamkin, Jr.	Henry Stewart
Pink G. Curd	Robert E. Lee	W. St. Clair Stuart
Forest C. Easley	Harvey D. Leonard	T. M. Swope
D. E. Edwards	Edward Leslie	J. Wood Vance
Harry W. Ennis	Frank C. McElwain	Walter R. Vansant
Carlos Fallis	Norris McPherson	S. J. Wagner
Cecil Florence	G. Sam Milam	Harry F. Walters
Wayne Freeman	Stanley C. Moebus	Henry Ward
Eugene Gough	John B. Mollette	James H. Woods
Ralph C. Hamilton	J. Lee Moore	—56

Those who voted in the negative were—

Alvis S. Bennett	Van Y. Greene	Ray J. Stengel
Douglas T. Bolling	J. B. Jarboe, Jr.	Erna E. Tyra
J. F. Bosworth	W. Paul Lyon	H. L. Waterfield
Charles M. Carter	Davis Moore	Otis White
S. B. Chrisman	Leon J. Shaikun	—14

Resolved that the title thereof be as aforesaid.

Mr. H. O. Porter moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 63. AN ACT adopting the law of the Commonwealth of Kentucky the supplement to Carroll's Kentucky Statutes and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October 1939, and known as Baldwin's Kentucky Statute Service.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the supplements to Carroll's Kentucky Statutes edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October 1939, and known as Baldwin's Kentucky Statute Service, be and the same are hereby adopted as the law of the Commonwealth of Kentucky, and in all actions and proceedings the law contained therein, including amendatory or supplemental sections may be cited or referred to as the law of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided by reference to and citation of the section of said service without giving the date or title of act from which the section is taken.

WHEREAS this act will save a great of labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist,

and this act shall take effect and be in force from and after its approval by the Governor.

All acts or parts of acts in conflict with this act are hereby repealed.

Mr. Shaikun moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	S. B. Chrisman	Ralph C. Hamilton
J. Everett Bach	John Coulter	C. L. Hammons
H. T. Baker	John H. Cox	T. H. Hickey
G. M. Ballard	Pink G. Curd	Clyde S. Howard
Robert E. Barry	W. Q. Daniel	Chester Huffines
Wm. T. Beard	Louis B. Dugan	John M. Hunnicutt
Alvis S. Bennett	Forest C. Easley	W. H. Hunt
Douglas T. Bolling	D. E. Edwards	J. B. Jarboe, Jr.
J. F. Bosworth	R. R. Ernst	Chas. X. Jones
W. S. Brim	Carlos Fallis	John S. Juett
C. J. Bronston	T. P. Fitzpatrick	William K. King
Gus A Brooks	Cecil Florence	W. A. Lamkin, Jr.
Randolph A. Brown	Wayne Freeman	Robert E. Lee
Haynes Carman	Eugene Gough	Harvey D. Leonard
Charles M. Carter	Van Y. Greene	Edward Leslie

W. Paul Lyon	Kleber F. Price	Henry Stewart
C. C. May	Hobart Rayburn	W. St. Clair Stuart
T. B. McConnell	Thomas Rigdon	T. M. Swope
Frank C. McElwain	Lyman Roll	Erna E. Tyra
Norris McPherson	Jack Savage	Walter R. Vansant
Stanley C. Moebus	Carl Scheben	S. J. Wagner
John B. Mollette	Leon J. Shaikun	Henry Ward
Davis Moore	Bruce Sloan	H. L. Waterfield
J. Lee Moore	Otto Smither	Otis White
C. Homer Neikirk	E. T. Sparks	James H. Woods
Carl D. Perkins	G. C. Springate	
H. O. Porter	Ray J. Stengel	—79

Resolved that the title thereof be as aforesaid.

Mr. Shaikun moved that the vote by which said bill was passed be reconsidered and the said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 64. AN ACT adopting as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky, the supplement to Carroll's Kentucky Codes, Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the supplement of Carroll's Kentucky Codes of Practice, Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939, be and the same is hereby adopted as the Civil and Criminal Codes of Practices of the Commonwealth of

Kentucky, and in all Civil and Criminal proceedings the Civil and Criminal Codes contained therein, may be cited or referred to as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided by reference to and citation of the section of said supplement of Carroll's Codes of Practice without giving the date or title of the act from which the section is taken.

Whereas this act will save a great deal of labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Goveror.

All acts or parts of acts in conflict with this act are hereby repealed.

Mr. Shaikun moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dspensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	H. T. Baker	Robert E. Barry
J. Everett Bach	G. M. Ballard	Wm. T. Beard

Alvis S. Bennett	C. L. Hammons	H. O. Porter
Douglas T. Bolling	T. H. Hickey	Kleber F. Price
J. F. Bosworth	Clyde S. Howard	Hobart Rayburn
W. S. Brim	Chester Huffines	Thomas Rigdon
C. J. Bronston	John M. Hunnicutt	Lyman Roll
Gus A Brooks	W. H. Hunt	Jack Savage
Randolph A. Brown	J. B. Jarboe, Jr.	Carl Scheben
Haynes Carman	Chas. X. Jones	Leon J. Shaikun
Charles M. Carter	John S. Juett	Bruce Sloan
S. B. Chrisman	William K. King	Otto Smither
John Coulter	W. A. Lamkin, Jr.	E. T. Sparks
John H. Cox	Robert E. Lee	G. C. Springate
Pink G. Curd	Harvey D. Leonard	Ray J. Stengel
W. Q. Daniel	Edward Leslie	Henry Stewart
Louis B. Dugan	W. Paul Lyon	W. St. Clair Stuart
Forest C. Easley	C. C. May	T. M. Swope
D. E. Edwards	T. B. McConnell	Erna E. Tyra
R. R. Ernst	Frank C. McElwain	Walter R. Vansant
Carlos Fallis	Norris McPherson	S. J. Wagner
T. P. Fitzpatrick	Stanley C. Moebus	Henry Ward
Cecil Florence	John B. Mollette	H. L. Waterfield
Wayne Freeman	Davis Moore	Otis White
Eugene Gough	J. Lee Moore	James H. Woods
Van Y. Greene	C. Homer Neikirk	
Ralph C. Hamilton	Carl D. Perkins	—79

Resolved that the title thereof be as aforesaid.

Mr. Shaikun moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 29. An Act to require the payment of a fee to the Attorney General by each person required by law to register with the Attorney General as a lobbyist, etc.

With Committee amendments thereto.

Mr. Hunnicutt moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. J. Lee Moore moved that the House do now adjourn to meet again on to-morrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 31, 1940

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Harry W. Alexander of the Southern Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Randolph A. Brown	Harry W. Ennis
J. Everett Bach	Haynes Carman	R. R. Ernst
H. T. Baker	Charles M. Carter	Carlos Fallis
Robert E. Barry	James W. Chapman	T. P. Fitzpatrick
Wm. T. Beard	S. B. Chrisman	Cecil Florence
Alvis S. Bennett	John Coulter	Wayne Freeman
Rell Bevins	John H. Cox	Eugene Gough
Sterling B. Blake	Pink G. Curd	Van Y. Greene
Douglas T. Bolling	W. Q. Daniel	Ralph C. Hamilton
J. F. Bosworth	Stanley S. Dickson	C. L. Hammons
W. S. Brim	Louis B. Dugan	T. H. Hickey
C. J. Bronston	Forest C. Easley	Clyde S. Howard
Gus A. Brooks	D. E. Edwards	Chester Huffines

John M. Hunnicutt	John B. Mollette	Otto Smither
W. H. Hunt	Davis Moore	E. T. Sparks
R. L. Jackson	J. Lee Moore	G. C. Springate
J. B. Jarboe, Jr.	Joe T. Morgan	J. Claude Stacy
Chas. X. Jones	C. Homer Neikirk	Ray J. Stengel
John S. Juett	Carl D. Perkins	Henry Stewart
William K. King	B. W. Porter	W. St. Clair Stuart
W. A. Lamkin, Jr.	H. O. Porter	T. M. Swope
Robert E. Lee	Kleber F. Price	Otis C. Thomas
Harvey D. Leonard	Hobart Rayburn	Erna E. Tyra
Edward Leslie	Thomas Rigdon	J. Wood Vance
W. Paul Lyon	W. H. Riley	Walter R. Vansant
C. C. May	Lyman Roll	S. J. Wagner
T. B. McConnell	Jack Savage	Porter Wallace
Frank C. McElwain	Carl Scheben	Harry F. Walters
E. Hayes McMakin	Leon J. Shaikun	Henry Ward
Norris McPherson	Ray O. Shehan	H. L. Waterfield
G. Sam Milam	Faust Y. Simpson	Otis White
Stanley C. Moebus	Bruce Sloan	James H. Woods

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Mr. J. Lee Moore moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. J. Lee Moore moved that a leave of absence be granted to Mr. Daugherty.

Said motion was agreed to.

Mr. Hunnicutt moved that a leave of absence be granted to Mr. Joe E. Robinson.

Said motion was agreed to.

Mr. Easley moved that the Sergeant-at-Arms be directed by the Speaker to place copies of the Legislative Digest on

the desk of the members of the House, thirty minutes before the hour of convening.

Mr. Tyra moved that said motion be laid on the table.

Said last named motion was agreed to.

Mr. Brown moved that the privilege of the floor be extended to Mr. Wallace McKay of Louisville, Kentucky.

Said last named motion was agreed to.

Mr. Chapman moved that the privilege of the floor be extended to Mr. Frank C. Malin of Ashland, Kentucky.

Said motion was agreed to.

Mr. Bolling moved that the privilege of the floor be extended to Mr. Paul Bushong of Ownsboro, Kentucky.

Said motion was agreed to.

Mr. Stuart moved that the privilege of the floor be extended to Mr. and Mrs. George Dunlap, former member of this House from Woodford county.

Said motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled bills of the following titles, viz.:

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending, and re-enacting section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; etc.

H. B. 119. An Act to repeal, amend and re-enact sec. 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation, etc.

H. B. 123. An Act relating to revenue and taxation and repealing, amending and re-enacting Sec. 1 of Chapter 63 of the Acts of the 1938 Regular Session of the General Assembly.

H. B. 166. An Act relating to chain stores or multiple mercantile establishments and imposing a license fee on such businesses for the purpose of regulating same etc.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk aforesaid, reported that he had discharged that duty.

The Chief Clerk produced and read the following communication, viz.:

His Excellency
The Governor of Kentucky,
Frankfort, Kentucky.

Dear Governor:

In view of publicity designed to create the impression in the minds of the public that I desire the privilege of the floor of the House of Representatives to further the interest of clients or for the purpose of influencing legislation for some selfish motive, I wish to remove any basis for adverse criticism of either the House of Representatives or of your administration by submitting herewith my resignation as one of your aides entitled to the privilege of the floor of the House of Representatives under the provisions of Rule No. 34 of the House Rules. I request acceptance of my resignation, effective immediately.

I accepted that responsibility with no other motive or desire than to render to your administration and to the public as a whole the most conscientious, unbiased and unselfish public service of which I am capable.

I have no employment as an attorney, or otherwise, that has conflicted or that would in any way conflict with the general public's interest in any legislation or legislative policy. I have no employment that obligates me, either directly or indirectly, to lobby for or against any legislation or proposed legislation. If the occasion should arise that I should accept any employment as a legislative agent or attorney for any person, firm or corporation, I shall promptly register in the office of the Attorney General as the law prescribes.

I am genuinely interested in your administration giving to this State the best government for the general welfare of the people as a whole that has ever been given in the history of the State. I am sure that that is your firm purpose and determination, and I am confident that with your experience, ability, character, courage and determination those objec-

tives constantly will be striven toward with all of the power and zeal at your command.

I yield to no man or set of men any greater devotion to honesty or efficiency in government or to progressive public-spirited interest in good government than I, myself, have.

Any time I can be of service to your administration, I shall be glad to do so.

With assurances of my highest personal esteem, and best wishes, I am

Very sincerely,
(signed) Clifford E. Smith

Frankfort, Kentucky
January 31, 1940

Hon. Clifford E. Smith,
Frankfort, Kentucky.

Dear Clifford:

This is to acknowledge your letter of January 30, in which you submit your resignation as a legislative aide of the governor in the House of Representatives.

In accepting your resignation I want to assure you that I am deeply grateful for your helpfulness in this capacity and express my appreciation of this manifestation of your unselfish attitude.

Mr. Hunnicutt moved that said communications be spread at length on the Journal of the House.

Said motion was agreed to.

Mr. Neikirk moved that the Clerk of this House be directed to have printed two hundred additional copies of H. B. 120 for distribution to interested persons.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 43. An Act to provide for the correction of omissions, irregularities, errors or mistakes of election officers.

Mr. Ward moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 96. AN ACT providing that the registration books of voters in voting precincts within a city of the third class which is not the county seat of the county within which it is situated shall be taken to the courthouse or city hall of such third class city by the clerk of the county court of such county, or by his deputy clerk, between the fifteenth day of August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year; and permitting all unregistered persons possessing the qualifications for registration as a legal voter of any voting precinct in such third class city, and all registered voters who have changed their place of residene from one voting precinct to one or a different voting precinct in such third class city, and all registered voters of any precinct in such third class city desiring to change their party affiliations, to register, or to change their registration, or to change their party affiliation, as the case may be, upon request therefor by appearing before said clerk or deputy clerk at the courthouse or city hall of such third class city between said dates, instead of at the offie of said clerk at the county seat.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4 of Chapter 45 of the "General

Registration Act", of the 1936 Acts of the General Assembly, same being Section 1486bb-4 of the Kentucky Statutes, Carroll's 1936 Edition, be and the same is hereby amended and re-enacted by adding thereto the following provisions and language, to-wit:

"Provided, however, that in counties containing a city of the third class which is not the county seat of the county within which it is situated, the clerk of the county court of such county, or his deputy clerk, shall take the registration book of voters for each voting precinct within such city to the courthouse or city hall of such city and keep same there between the fifteenth day of August and the tenth day of October and between the fifteenth day of November and the tenth day of July of any year. Any person possessing the qualifications for registration as a legal voter of any voting precinct within such city, and who has failed to register, may appear before said clerk or deputy clerk between said dates of any year (Sundays and legal holidays excepted) at the office or place in the courthouse or city hall of said city where said registration books are taken, at any hour of the day such office or place is open for business, and upon the request of such voter the said clerk shall properly register such voter. Any registered voter of any voting precinct within such city who wishes to change his party affiliation, may appear before said clerk or deputy clerk between said dates of any year, and upon his request, the clerk or deputy clerk shall make said change on the registration book." So that said section of said chapter of said Act of 1936, after same is hereby amended and re-enacted, shall read and provide as follows, to-wit:

"Any person possessing the qualifications for registration as a legal voter as set out in Section two (2) hereof (Act of 1936), and who fails to register on such primary election date, may appear before the county court clerk of the county of the residence of such voter, between the fifteenth day of

August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year (Sundays and legal holidays excepted) at any hour of the day the office of the County Court Clerk may be open for business. Any voter who wishes to change his party affiliation may appear before the clerk between said dates of any year, and upon his request, the clerk shall make said change on the registration book.

"Provided, however, that in counties containing a city of the third class which is not the county seat of the county within which it is situated, the clerk of the county court of such county, or his deputy clerk, shall take the registration book of voters for each voting precinct within such city to the courthouse or city hall of such city and keep same there between the fifteenth day of August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year. Any person possessing the qualifications for registration as a legal voter of any voting precinct within such city, and who has failed to register, may appear before said clerk or deputy clerk between said dates of any year (Sunday and legal holidays excepted) at the office or place in the courthouse or city hall of said city where said registration books are taken, at any hour of the day such office or place is open for business, and upon the request of such voter the said clerk or deputy clerk shall properly register such voter. Any registered voter of any voting precinct within such city who wishes to change his party affiliations, may appear before said clerk or deputy clerk between said dates of any year, and upon his request, the Clerk or deputy clerk shall make said change on the registration book."

§ 2. Any Act of the General Assembly in conflict with any of the provisions of this Act are, to the extent of such conflict, hereby repealed.

Mr. Bosworth offered the following amendment thereto by way of Substitute therefor, viz.:

An Act relating to the registration of voters in voting precincts within a city of the third class which is not the county seat of the county within which it is situated.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. Section 14 of Chapter 111 of the Acts of 1938, compiled as section 1496-14 of Carroll's Kentucky Statute Service, May 1938, is amended to read as follows:

(1) Any person possessing the qualifications for registration as a legal voter as now provided for by law may appear before the county court clerk of the county of his residence or before the Board of Registration Commissioners of any city of the first class in which the voter may reside and register, or change his party affiliation, at an hour of any day which the office of the county court clerk of any county or the office of the Board or Registration Commissioners of any city of the first class is open for business. The county court clerk of every county and the Board of Registration Commissioners of any city of the first class shall cause all registration books or lists to be closed fifty-nine days prior to any primary or general election and no voter shall be registered or change, or be permitted to change, his registration during the period that the books remain closed. The county court clerk of every county and the Board of Registration Commissioners of any city of the first class in this Commonwealth shall not again re-open their books for registration of voters or the re-registering or changing of party affiliation of said voters until ten days after any primary or general election.

(2) In counties containing a city of the third class which is not the county seat of the county within which it is situated, the clerk of the county ourt or his deputy shall

take the registration book of voters for each voting precinct within such city to the courthouse or city hall of such city and keep them there during the period the books are open. Any person possessing the qualifications for registration as a legal voter of any voting precinct within such city may appear before the clerk or deputy during the period the books are open at the office or place in the courthouse or city hall of the city where the registration books are taken, at any hour of the day the office or place is open for business, and register or change his party affiliation.

2. Section 1486bb-4 of Carroll's Kentucky Statutes, 1936 Edition, is repealed.

Mr. Lamkin moved that said Substitute be printed.

Said motion was agreed to.

Mr. Bosworth moved the Previous Question.

Thereupon the Speaker announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said Substitute was then adopted.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Eugene Gough	H. O. Porter
J. Everett Bach	Van Y. Greene	Kleber F. Price
H. T. Baker	Ralph C. Hamilton	Hobart Rayburn
Robert E. Barry	C. L. Hammons	Thomas Rigdon
Wm. T. Beard	T. H. Hickey	W. H. Riley
Alvis S. Bennett	Clyde S. Howard	Lyman Roll
Sterling B. Blake	Chester Huffines	Jack Savage
Douglas T. Bolling	John M. Hunnicutt	Carl Scheben
J. F. Bosworth	W. H. Hunt	Leon J. Shaikun
W. S. Brim	R. L. Jackson	Ray O. Shehan
C. J. Bronston	J. B. Jarboe, Jr.	Faust Y. Simpson
Gus A. Brooks	Chas. X. Jones	Bruce Sloan
Randolph A. Brown	John S. Juett	Otto Smither
Haynes Carman	William K. King	E. T. Sparks
Charles M. Carter	Robert E. Lee	G. C. Springate
S. B. Chrisman	Harvey D. Leonard	J. Claude Stacy
John Coulter	W. Paul Lyon	Ray J. Stengel
John H. Cox	T. B. McConnell	Henry Stewart
Pink G. Curd	Frank C. McElwain	W. St. Clair Stuart
W. Q. Daniel	E. Hayes McMakin	T. M. Swope
Stanley S. Dickson	Norris McPherson	Otis C. Thomas
Louis B. Dugan	G. Sam Milam	J. Wood Vance
Forest C. Easley	Stanley C. Moebus	Walter R. Vansant
D. E. Edwards	John B. Mollette	S. J. Wagner
Harry W. Ennis	Davis Moore	Porter Wallace
R. R. Ernst	J. Lee Moore	Harry F. Walters
Carlos Fallis	Joe T. Morgan	Henry Ward
T. P. Fitzpatrick	C. Homer Neikirk	H. L. Waterfield
Cecil Florence	Carl D. Perkins	Otis White
Wayne Freeman	B. W. Porter	James H. Woods

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There voted in the negative—

Rell Bevins —1

Resolved that the title thereof be as amended.

Mr. Bosworth moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt moved that the House do now recess until one-thirty o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-thirty o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Woods of the Committee on Insurance, Life and Casualty.

H. B. 193. An Act relating to the deposit of securities by domestic life insurance companies for the protection of the policy holders therein; etc.

By Mr. J. Lee Moore of the Committee on Appropriations No. 1.

H. B. 116. An Act to promote the public welfare by providing aid to the needy blind.

By Mr. Bolling of the Committee on Revenue and Taxation No. 1.

H. B. 35. An Act relating to revenue and taxation, amending sections 4281f-1, as amended by Chapter 34 of the Acts of 1938, and 4281f-2 of Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency.

With a Committee amendment thereto by way of Substitute therefor.

By Mr. Smither of the Committee on Suffrage and Elections.

H. B. 177. An Act relating to the filing of certificates of election.

By Mr. Fitzpatrick of the Committee on Public Health No. 1.

H. B. 172. An Act approving, ratifying and enacting into law the Ohio River Valley water sanitation compact for the prevention, abatement and control of pollution of the rivers, streams and waters in the Ohio River drainage basin.

By Mr. Vance of the Committee on State and National Parks.

H. B. 118. An Act prividing that no person shall kindle or start any fire in a public or private road, or in the woods adjacent thereto, etc.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Shehan moved that the Rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon the following bills and resolutions were introduced, viz.:

By Mr. Brim.

H. B. 272. An Act to amend section 2437 of Carroll's Kentucky Statutes, 1936 edition, relating to the preservation and protection of public books.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 2437 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The clerk of each house of the General Assembly shall, at the close of each session, collect all the books belonging to their respective houses, make out a complete list of the books and have them carefully boxed up. The books shall then be delivered to the State Libarian who shall carefully preserve them so as to have them forthcoming at the commencement of each succeeding session of the General Assembly. Any clerk of either house of the General Assembly who violates this Act and any person who converts to his own use any book belonging to the General Assembly shall be fined not less than five hundred dollars.

By Mr. J. Lee Moore.

H. B. 273. An Act to repeal, amend and re-enact Section 979b-10, Carroll's Kentucky Statutes, 1936 Edition, being a portion of Chapter 30 of the Acts of 1936.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. An Act to repeal, amend and re-enact Section 979b-10 of Carroll's Kentucky Statutes, 1936 Edition, being a portion of Chapter 30 of the Acts of 1936, so that when re-enacted it shall read as follows:

Probation and parole officers appointed under this Act shall be assigned to serve in such courts or districts as the Director of Probation and Parole may determine. They shall be paid such salaries as the Department of Public Welfare may prescribe not to exceed Eighteen Hundred Dollars per annum and may also be paid traveling and other necessary expenses incurred in the performance of their duties. The number of Probation and Parole Officers shall not exceed forty for the State.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. McPherson.

H. B. 274. An Act repealing, amending, and re-enacting Sections 864, 864a, and 868, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to operation and management of Building and Loan Associations, and adding two new sections to be known as Section 856a-2 relating to stock in such Associations, and Section 865a-2 authorizing reduction loans to be made on semi-annual periods.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sections 864, 864a, and 868, of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, are hereby repealed,

amended, and re-enacted to read as follows; and that Section 856a-2 relating to stock in Building and Loan Associations, and Section 865a-2 authorizing reduction loans to be made on semi-annual periods, are enacted.

Section 864. Withdrawals.—A member may withdraw his or her unpledged shares at any time by giving thirty days' written notice of his or her desire to do so. Upon the filing of such written application to withdraw, the association shall number and file the same in the order received and shall, after thirty days from the receipt of such application to withdraw, either pay the holder the value thereof, in part or in full as requested, or apply at least one-half of the receipts of the association as hereinafter provided from its shareholders and borrowers to the withdrawal of such share in numerical order. Shareholders filing written application for the withdrawal of their shares shall remain shareholders until paid, and shall not become creditors.

Provided, further, that an association shall not be required to pay out on withdrawals more than one-half of the net weekly receipts of such association after the payment of current dividends, and after making provision for anticipated dividends and the payment of said dividends, repaying money borrowed, and after paying administration expenses of the association, taxes, insurance and repairs on property owned, municipal assessments, and any other necessary disbursements.

Provided, further, that should one member apply for a withdrawal of more than five hundred ($500.00) dollars, he shall be paid $500.00 in order when reached, and his application shall be charged with such amount as paid and shall be renumbered and placed at the end of the list of applications to withdraw, and thereafter upon again being reached, shall be paid a like amount, but not to exceed the value of his shares, and until paid in full shall continue to be so paid, renumbered, and replaced at the end of the list until paid in full. A mem-

ber withdrawing, when paid, shall receive the full amount paid in as dues or paid-up stock, together with only such dividends as have been declared and credited on said shares, less all fines, interest, or other charges.

Provided, further, subject to the approval of the Board of Directors, any borrowing member who shall fully satisfy the Directors of his or her inability to pay, may be permitted to withdraw from his or her dues a sum sufficient to be applied to payment of taxes, assessments for municipal improvements, repairs considered necessary by the Board of Directors to protect the loan, and sanitary improvements.

All dues so withdrawn shall be applied for such purposes under the supervision of the association, and receipts evidencing such payments and expenditures shall be filed in the office of the association, with the Note and Mortgage of the members. Provided, further, that no withdrawal for repairs shall be permitted without an appraisal, nor shall withdrawals be made for such purpose if a current appraisal is sufficient to grant mortgage for that purpose.

And further, that the Board of Directors may, in their discretion, apply any of the money paid in by borrowing members, as dues, to the payment of premiums for hire and tornado insurance.

Section 864a. Withdrawal, involuntary.—The Directors may, in their discretion, under the rules made by them in conformity with the by-laws, retire the unpledged shares, in the order of the issuance of such shares, by enforcing withdrawals of the same, and the owners shall be paid the full value of their shares together with interest thereon, not in excess of previous dividend rate, but in no event in excess of six per cent, from date of last distribution of profits, less any unpaid fines or any other legal charges, provided, that all fully paid, prepaid, or matured shares that may be outstanding shall first be retired.

Section 868. Dividends.—Dividends shall be declared, credited, or paid on all stock quarterly, semi-annually, or an-

nually, as the by-laws may provide. All stock upon which payments are made in installments, excepting stock pledged upon the Direct Reduction Plan, and all paid-up fully participating stock shall be entitled to dividend in proportion to amount paid in on such stock. Paid-up stock upon which the dividend rate is limited shall not participate in profits in excess of such limited rate.

Stock issued upon which mortgage is made upon semi-annual reduction plan shall participate in any dividend only to extent of payments not credited upon the loan.

No dividend shall be declared, credited, or paid by any association excepting out of net profits collected, after deducting from the earnings all expenses of operation and all losses sustained, except such losses from sale of real estate as may be charged to reserve fund as provided in Section 868a.

That new Section 856a-2 be enacted by adding after Section 856a-1:

Section 856a-2. Stock.—An association may also issue stock for purpose of making loans upon the Direct Reduction Plan, or upon a plan where such reductions are made at every Semi-annual Period.

and, a new Section 865a-2, to be enacted, by adding after Section 856a-1:

Section 865a-2. Semi-annual Period Reduction Loans.—Building and Loan Associations incorporated under the laws of Kentucky may also make loans on a reduction plan where the reduction of loan or credit upon loan shall be made at the end of every Semi-annual Period.

The applicants for such loans shall subscribe for shares equal, when paid up, to the amount of such loans.

All said loans shall bear interest at such rate, and such premium, and shall be payable in equal weekly or monthly installments, and for such length of time as the by-laws may provide.

Payment of dues, interest, and premium, (if any), shall be credited upon the Semi-annual Reduction Plan. At the end of each semi-annual period, the dues paid, and any dividends credited, shall be credited upon the loan.

All payments made on said loan shall first be credited to payment of interest, and premium (if any); and the balance, with dividends credited, applied on principal at end of every semi-annual period; and after such credit, interest shall be charged on the balance.

When the amount paid in as dues, together with dividends credited, shall equal the par value of the shares, such shares shall automatically be canceled, and the mortgage released.

All loans made under this plan shall be subject to the provisions of Section 866, relating to repayment of loans, and Section 867a, relating to default in payment of dues and interest.

By same.

H. B. 275. An Act to simplify and modernize divorce procedure and to relieve against inequalities in the application thereof to citizens of this Commonwealth by amending Section 423 of the Civil Code of Practice, Baldwin's 1938 Revision, and Section 2120 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That in order to simplify and modernize divorce procedure and to relieve against inequalities in the application thereof to citizens of this Commonwealth, Section 423 of the Civil Code of Practice, Baldwin's 1938 Revision, and Section 2120 of Carroll's Kentucky Statutes, 1936 Edition, be and they are hereby amended, so that said Sections when amended, shall read respectively as follows:

Section 423—The plaintiff, to obtain a divorce, must allege and approve, in addition to a legal cause of divorce—

1. A residence in this State for one year next before the commencement of the action.

2. That the cause of divorce occurred or existed in this State, or, if out of the State, either that it was a legal cause of divorce in the State where it occurred or existed, *or under the provisions of Section 2117 of Carroll's Kentucky Statutes and any amendments thereto,* or that the plaintiff's residence was then in this State.

3. That the cause of divorce occurred or existed within five years next before the commencement of the action.

Section 2120.—Action for divorce must be brought in the county where the wife usually resides, if she has an actual residence in the state; if not, then in the county of the husband's residence. And no such action shall be brought by one who has not been a continuous resident of this state for a year next before its institution. Nor, unless the party complaining had an actual residence here at the time of the doing of the act complained of, shall a divorce be granted for anything done out of this state, unless it was also a cause for divorce *either* by the law of the country where the act was done *or under the provisions of Section 2117 of Carroll's Kentucky Statutes and any amendments thereto.* An action for divorce must be brought within five years next after the doing of the act complained of. Cohabitation as man and wife, after a knowledge of adultery or lewdness complained of, shall take away the right of divorce therefor. Every judgment for a divorce may, at any time, be annulled by the court rendering it on the joint application of the parties, and they restored to the condition of husband and wife; but no divorce shall thereafter be granted between them for the same or a like cause.

By Mr. Milam.

H. B. No. 276. An Act to amend and supplement the Alcoholic Beverage Control Law (Ky. 1938 Acts, Regular Session, Chapter 2), called "DISTILLED SPIRITS AND

WINE FAIR TRADE ACT'', providing for fair trade contracts with minimum resale prices from resident producers, processors and vintners to wholesalers; from wholesalers and importers to retailers; from non-resident producers, processors and vintners, on brands sold in this State to wholesalers and importers; from importers to retailers; providing for amendments as to change in price; provisions regulating close out sales; registration of brands by resident producers, processors and vintners; registration of brands by non-resident producers, processors, vintners and wholesalers; enumerating the purposes of the Act; setting out the powers of the Board; providing penalties for the violation of any rule or regulation made by the Board for the enforcement of this Act; providing penalties for the violation of any provision of this Act; providing for the levy, collection and distribution of revenue for the enforcement of this Act; defining ''words and phrases'' used in this Act and in Fair Trade Act (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24); providing that if any part of this Act shall be held invalid and unconstitutional this shall not affect the validity of any remaining part of this Act; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 2 of the 1938 Acts of the Kentucky General Assembly known as the ''Alcoholic Beverage Control Law'' be and the same is hereby amended as follows:

§ 2. FAIR TRADE CONTRACTS, MINIMUM RESALE PRICES, PROVISIONS, CONCERNING.—No distiller, rectifier, blender, wholesaler, vintner, or retailer or anyone for them, who holds a license in this State to sell ''Distilled Spirits or Wines'', as defined in Section 2, sub-sections 28 and 33 of the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2,) 'a commodity, which bears the

trade-mark, brand or name of the producer or owner, and which is in fair and open competition with commodities of the same general class produced others,' shall offer same for sale in this State in any manner or at all, without complying with the provisions of this Act.

All distilled spirits or wines sold in this State must be sold according to a "Fair Trade Contract", as defined in Section 1 of the Fair Trade Act, (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24), which fair trade contract must provide for the following minimum resale prices without discount, subject to the following provisions:

(a) Sale from distillers, rectifiers, blenders, producers, owners, or any one for them, to wholesalers, a minimum mark-up resale price without discount for wholesalers of not less than 15%.

(b) Sale from vintners to wholesalers, a minimum mark-up resale price without discount for wholesalers of not less than 20%.

(c) Sale from wholesalers to retailers, a minimum mark-up resale price without discount for retailers of not less than 33-1/3% in less than case lots and not less than 10% in units of one case or more.

(d) Any donations, free goods, bribery or rebates of any character whatsoever which constitute any part of an inducement to purchase, before or subsequent to purchase, or which constitute any part of the consideration flowing from any licensee to any other licensee in this State, shall be construed as a violation of the minimum mark-up resale price herein provided.

(e) All mark-up resale prices to all licensees must be calculated on the actual price, inclusive of bottling charges and all other charges, paid for the distilled spirits or wines sold, plus all taxes, plus all transportation charges, to be calculated on a minimum basis of not less than .25c per case.

(f) Any licensee who shall offer to purchase or purchases, offer to sell or sells, any distilled spirits or wines for a price less than the minimum mark-up resale price herein provided, shall be subject to the penalties hereinafter prescribed for any violation of this Act.

(g) The entire State shall constitute one trading area, and no licensee shall submit to the Board any Fair Trade Contract which provides for any different minimum resale mark-up price for any portion of the State area different from that which is provided for the whole area.

The Department shall at all times investigate and regulate any unusual differences between market prices and minimum resale prices provided for in Fair Trade Contracts on file, and if upon investigation it appears that the orderliness of the market has been disrupted by fluctuations in market prices, licensees responsible for such practices shall be subject to the penalties hereinafter prescribed for the violation of any provisions of this said Act.

§ 3. MINIMUM PROVISIONS FOR FAIR TRADE CONTRACTS OF PRODUCERS AND PROCESSORS.—All distillers, rectifiers, blenders, vintners or producers of distilled spirits or wines, licensed in this State, whether bearing private labels or not, must file with the Department the number of copies the Department may require, of the fair trade contracts under which such licensees shall offer to sell, and sell, such distilled spirits or wines to vendees or wholesalers in this State, not less than 10 days prior to the date that said distilled spirits or wines are offered for sale.

The said fair trade contracts, among other things, must contain:

(a) The brand of the distilled spirits or wines sold.

(b) The age of the distilled spirits sold.

(c) The proof of the distilled spirits or wines sold.

(d) The sale price of the distilled spirits or wines sold, computed according to the size of the containers sold.

(e) The stipulated minimum resale price, at which it is required that the vendee or wholesaler resell to his purchaser or retailer, arrived at in the amount prescribed in Section 2, Subsection (a) or (b), and in the manner prescribed in Section 2, subsection (e) of this Act.

(f) The name and address of the vendees or wholesalers to whom said distilled spirits or wines shall be offered for sale and sold.

§ 4. MINIMUM PROVISIONS FOR FAIR TRADE CONTRACTS OF VENDEES OR WHOLESALERS.—All wholesalers or vendees, owners or producers of distilled spirits or wines, licensed by this State whether bearing private labels or not, must file with the Department, the number of copies the Department may require, of the fair trade contracts under which such licensees shall offer to sell and sell such distilled spirits or wines to purchasers or retailers in this State, not less than 10 days prior to the date that said distilled spirits or wines are offered for sale.

The said fair trade contracts, among other things, must contain:

(a) The brand of the distilled spirits or wines sold.

(b) The age of the distilled spirits sold.

(c) The proof of the distilled spirits or wines sold.

(d) The sale price of the distilled spirits or wines sold, computed according to the size of the containers sold.

(e) The stipulated minimum resale price, at which it is required that the purchaser or retailer resell to his purchaser or consumer, arrived at in the amount prescribed in Section 2, subsection (c) and the manner prescribed in Section 2, Subsection (e) of this Act, except that there shall not be included any mark-up for transportation charges.

(f) A statement by the vendee or wholesaler that with

every lot, or portion of a lot of distilled spirits or wines sold to a purchaser or retailer, the invoice will contain the stipulated minimum resale price below which the purchaser or retailer cannot resell to the consumer.

Receipt of the distilled spirits or wines by the purchaser or retailer shall constitute notice to the purchaser or retailer of the stipulated minimum resale price below which the purchaser or retailer cannot resell the distilled spirits or wines to the consumer.

§ 5. NON-RESIDENT LICENSEES AND IMPORTERS: PROVISIONS CONCERNING.—Non-resident distillers, rectifiers, blenders, vintners, producers, owners, or anyone for them, not licensed by this state, as to those brands sold in this State, must sell said brands under fair trade contracts in the manner prescribed for similar resident licensees.

Importers, or anyone for them, who shall offer to sell, or sells, distilled spirits or wines in this State, must do so under fair trade contracts in the manner provided for resident licensed vendees or wholesalers.

§ 6. AMENDMENTS TO FAIR TRADE CONTRACTS FILED.—All licensees who have filed fair trade contracts with the Department may file amendments thereto, effecting any changes in the stipulated minimum resale price contained in the original contract filed.

Provided said amendments which change the wholesalers' resale price shall be filed 10 days before such amendments become effective, and,

Provided said amendments which change the retailers' resale price shall be filed 10 days before such amendments become effective.

§ 7. CLOSE-OUT SALES: PROVISIONS CONCERNING.—Close-out sales must be had at a price below

the stipulated minimum resale price fixed in the fair trade contract only when one of the following causes exists:

(1) That said stock of goods has become obsolete by reason of either age change, or label change,

(2) That said stock of goods are damaged goods,

(3) That said stock of goods are deteriorated in quality, or either of them.

And in addition to one of said causes, it must further appear:

(a) That the stock of goods sought to be closed out must have been in this State for a period of not less than three months, and that said stock of goods was not brought into this State, or any part thereof, for the purpose of offering it at a close-out sale.

(b) That the stock of goods sought to be sold had been first offered to the producer, wholesaler or vendor from whom purchased at the original invoice price or less, and that the said vendor had refused to repurchase said goods.

(4) Causes (1), (2) and (3) are non-cumulative, whereas conditions (a) and (b) are cumulative, and must be set up in a petition properly verified by said licensee and filed with the Department at least 10 days before such stock of goods shall be offered by sale to the public.

(5) The Department, in its discretion may then either:

(a) Allow or refuse to allow said close-out sale to be held.

(b) If the Department, acting through the Distilled Spirits Administrator, refuses to allow said close-out sale to be held, it shall notify the licensee, and the licensee shall have the procedural remedies in the manner more particularly provided in Section 42 of the Alcoholic Beverage Control Law, (Ky. 938 Acts, Regular Session, Chapter 2).

§ 8. REGISTRATION OF BRANDS BY RESIDENT PRODUCERS, PROCESSORS, AND VINTNERS: PRO-

VISIONS CONCERNING.—Every resident distiller, rectifier, blender or vintner who owns or has an exclusive interest in any particular brands, private or otherwise, which brands are intended for sale or sold in this State, must register on a form to be provided by the Department, the name or names of such licensed wholesalers to whom distributing rights have been granted on one or more or all of said brands of distilled spirits or wines offered for sale or sold in this State.

(a) Any distiller, rectifier, blender or vintner who shall offer to sell or sell, or any wholesaler who shall offer to purchase or purchase, any brands which have not been registered as herein provided, shall be subject to the penalties hereinafter prescribed for any violation of this Act.

§ 9. REGISTRATION OF BRANDS BY NON-RESIDENT PRODUCERS, PROCESSORS, VINTNERS AND WHOLESALERS: PROVISIONS CONCERNING.—Every non-resident distiller, rectifier, blender, vintner, or wholesaler who owns or has an exclusive interest in any particular brand, private or otherwise, which brands are intended for sale or sold in this State, must register on a form to be provided by the Department, the name or names of such State licensed wholesalers to whom distributing rights have been granted on one or more or all of said brands of distilled spirits or wines offered for sale or sold in this State.

(a) No licensed wholesaler in this State shall apply for or receive an "importer's permit", to import, buy, offer to sell, or sell, any brands offered for sale or sold by any non-resident distiller, rectifier, blender, vintner or wholesaler until such non-resident distiller, rectifier, blender, vintner or wholesaler has granted distributing rights to such State licensed wholesaler in the manner herein provided.

(b) Any State licensed wholesaler who shall import, buy, offer for sale or sell, any brands offered for sale or sold

by any non-resident distiller, rectifier, blender, vintner or wholesaler without:

First, having previously been granted distributing rights by such non-resident distiller, rectifier, blender, vintner or wholesaler in the manner herein provided and

Second, having previously applied for and received from the Department an "importer's permit", shall be subject to the penalties hereinafter prescribed for any violation of this Act.

§ 10. PURPOSES OF ACT: DEPARTMENT'S POWERS AND PENALTIES; PROVISIONS.—The purpose of this Act is to require that fair trade contracts be filed with respect to all resale prices from producer, wholesaler or importer and retailer to consumer.

The Board is hereby vested with plenary powers to make rules and regulations, and the Department is required to provide forms from time to time that may be necessary to regulate the liquor industry and to make this Act effective in its entirety.

When there has been, in the opinion of the Department by any licensee, 'any wilfully and knowingly advertising, offering for sale or selling any distilled spirits or wines at less than the price stipulated in any fair trade contract entered into pursuant to the provisions of this Act,' or any violation of any provision of this Act, or any violation of any rule or regulation promulgated by the Board in enforcing this Act, the licensee so charged shall be deemed guilty of unfair competition and subject to any of the penalties prescribed in the Alcoholic Beverage Control Law, Title III, Article V and sections thereunder, (Ky. 1938 Acts, Regular Session, Chapter 2), as the Board may determine for the violation of any Act herein prohibited, in accordance with the procedure provided for in the Alcoholic Beverage Control Law, Title III, Article V and sections thereunder, (Ky. 1938 Acts, Regular Session, Chapter 2).

§ 11. REVENUE PRODUCED BY TAX ON WHOLESALERS SHALL BE USED FOR ENFORCEMENT.

(a) That each State licensed wholesaler shall pay, through the Department of Revenue, for deposit with the State Treasury, to be credited to the appropriation, for the Department of Revenue, five (5) cents per case on each case of distilled spirits sold in the State of Kentucky by each wholesaler.

(b) The five (5) cents tax per case shall be computed according to the number of cases sold in Kentucky by each wholesaler for each calendar month, as shown on the monthly report now required to be filed by each wholesaler with the Department, pursuant to Kentucky Statutes, Section 4281c-19.

(c) The five (5) cents per case tax shall be paid by the wholesalers on or before the date of each succeeding month that reports of licensees must be filed, pursuant to Kentucky Statutes, Section 4281c-19, on the number of cases sold by the wholsalers in Kentucky for the preceding calendar month.

(d) Each wholesaler in executing to the Commonwealth the bond referred to in Section 37 of the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2), to secure each wholesaler's tax obligations to the Commonwealth shall increase said bond with surety thereon, to be approved by the Department, in an amount sufficient, in the opinion of the Department, to secure to the Commonwealth such further sum or sums of taxes as may be due or become due the Commonwealth by reason of the five (5) cents tax per case herein imposed.

(e) All of said funds paid into the State Treasury, through the Department of Revenue, by the wholesalers, pursuant to the five (5) cents tax per case herein imposed shall be used by the Department for the purposes hereinafter enumerated.

(1) For the placing into operation, policing and enforc-

ing of this, the "Distilled Spirits and Wine Fair Trade Act"; and

(2) For the placing into operation and policing specifically Section 52 of the Alcoholic Beverage Control Law (Ky. 1938 Acts, Regular Session, Chapter 2) and enforcing specifically Section 94 of the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2) relative to prohibiting the manufacturing, trafficking and selling of non-tax-paid distilled spirits and wines in violation of the aforesaid Statutes.

(f) The cost of performing the aforesaid duties shall be determined upon a cost accounting distribution to be approved by the Department of Finance.

§ 12. DEFINITIONS OF TERMS USED IN THIS ACT AND IN FAIR TRADE ACT.—Wherever any "words or phrases" are used in this Act, which same "words or phrases" are used in the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2), and which "words and phrases" are defined by the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2), the same definition shall be given to the "words and phrases" used in this Act as are given by the Alcoholic Beverage Control Law, (Ky. 1938 Acts, Regular Session, Chapter 2).

Whenever the words, "vendee or wholesaler", are used in this Act, they shall be considered as synonymous.

Wherever the words "purchaser or retailer", are used in this Act, they shall be considered as synonymous.

Wherever the word, "producer", is used in Section 1 of the Fair Trade Act, (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24), it shall be equivalent to a distiller, rectifier, blender or vintner, as used in this Act.

Wherever the word, "buyer" is used in Section 1 of the Fair Trade Act, (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24), it shall be equivalent to either wholesaler or retailer as used in this Act.

Wherever the word "vendee" is used in Section 1 of the Fair Trade Act, (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24), it shall be equivalent to "vendee or wholesaler" as used in this Act.

Wherever the word, "purchaser" is used in Section 1 of the Fair Trade Act, (Ky. 1936-37 Acts, Fourth Special Session, Chapter 24), it shall be equivalent to "purchaser or retailer" as used in this Act.

§ 13. INVALID OR UNCONSTITUTIONAL: PROVISIONS CONCERNING.—If any sentence, section or clause of this Act shall for any reason be held invalid or unconstitutional such decision shall not effect the validity of the remaining parts hereof.

§ 14. DECLARING AN EMERGENCY. This is an Act to produce revenue by the proper enforcement of the laws governing the Distilled Spirits and Wine Industries, and it is now provided that in respect thereto, an emergency exists and this Act shall become a law and be effective on its passage and approval by the Governor, or shall become a law without his approval.

By Mr. Waterfield.

H. B. 277. An Act to provide that ninety per cent (90%) of the Kentucky excise tax paid on refund gasoline, as defined in this Act, be refunded to the purchaser who uses the gasoline in a tractor or stationary engine for agricultural purposes; to provide for the disposition of the remaining ten per cent (10%) of such taxes; to provide for the administration of this Act; and to provide punishments for its violation.

Said bill is follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.*—The term "refund gasoline" as used in this Act, shall mean gasoline, as defined in section 4281g-1

of Carroll's Kentucky Statutes, 1936 edition, used or to be used in a tractor or stationary engine operated for agricultural purposes.

The word "Department" shall mean the Department of Revenue.

The word "Commissioner" shall mean the Commissioner of Revenue.

The word "person" shall be construed to include, in addition to an individual, any partnership, fiduciary, association, or corporation.

The term "fiscal year" shall mean the period of twelve (12) months, beginning on the first day of July of each calendar year, and ending on the thirtieth day of the following June.

§ 2. *Refunds Authorized.*—Any person who shall buy gasoline for use in a farm tractor or stationary engine on a farm, who has actually used such gasoline for agricultural purposes and who has paid the excise tax thereon imposed by law of this Commonwealth, shall be considered to use refund gasoline, and, subject to the conditions hereinafter prescribed, shall be repaid ninety per cent (90%) of such tax; provided, that no part of such refund gasoline has been used for any other purpose than hereinabove provided, it being understood, however, that the use of refund gasoline in the operation of a farm tractor upon the highways from one field of operation to another shall not be construed to be an improper use of such gasoline; and provided further, that no such tax shall be paid on refund gasoline purchased in quantities of less than ten (10) gallons at any one time.

§ 3. *Seller's Permit.*—No seller of refund gasoline shall execute a certificate of purchase, as hereinafter described in section 7 of this Act, without having first secured a Seller's Permit, as provided in this section.

Any seller of gasoline desiring to be qualified to execute such certificates of purchase, shall make application for a

Seller's Permit to the Department. Such application shall be accompanied by a filing fee of one dollar ($1.00) and shall be made in a manner and contain such information as may be required by the Department. Such fee shall be transmitted to the State Treasurer by the Department, and there credited to a separate account which shall be designated "Gasoline Tax Refund Expense Account," for which provision is hereinafter made in section 17 of this Act, provided, however, such fee shall be refunded to the applicant if the requested permit is not issued.

Such permit shall be conditioned upon the faithful performance of the provisions of this Act with reference to the sale of refund gasoline.

Upon receipt of such application, and a bond, if required, as hereinafter provided in section 5 of this Act, the Department shall, after such investigation as it deems necessary, issue a permit privileging the applicant and such of his agents as may be duly authorized so to do in accordance with the provisions hereinafter prescribed, to execute certificates with respect to the sale of refund gasoline, as hereinafter provided. Each such permit shall be given a serial number by the Department, and shall expire with the fiscal year for which it is issued.

No person shall be repaid excise taxes on any refund gasoline purchased from any person not having a Seller's Permit, as required by this section.

§ 4. *Purchaser's Permit.*—Before any person shall be entitled to make claim for a refund of excise tax under this Act, he shall hold a Purchaser's Permit issued by the Department. Application for a Purchaser's Permit shall be made in accordance with the Department's requirements on a form to be furnished by it, and shall contain a description of each stationary engine or tractor in which the refund gasoline is to be used, including the make, motor number, model, horsepower, the approximate per hour fuel consumption of the sta-

tionary engine or tractor in which refund gasoline is to be used, and such other information as the Department may require. The application shall also contain a statement of the applicant's estimate of the amount of refund gasoline he will use each month during the remainder of the fiscal year to be covered by such permit, together with a statement of the basis of such estimate, and the address of the applicant, and shall be signed and duly verified before a Notary Public or any other officer duly authorized to administer oaths in the county of the applicant's farm or residence.

The application shall be accompanied by a filing fee of one dollar ($1.00). Such fee shall be transmitted to the State Treasurer by the Department of Revenue, and there credited to a separate account which shall be designated "Gasoline Tax Refund Expense Account," for which provision is hereinafter made in section 17 of this Act, provided, however, such fee shall be refunded to the applicant if the requested permit is not issued.

If the Department, after such investigation as it deems necessary, shall be satisfied that the application for a Purchaser's Permit has been made in good faith and that applicant has complied with the requirements of this Act, it shall issue a Purchaser's Permit to the applicant, privileging him to make application, in accordance with the requirements of this Act, for refund of excise taxes. Each such permit shall expire with the fiscal year for which it is issued, except that such expiration shall not prevent the filing of claim for refund on refund gasoline used during the fiscal year or lesser period for which the permit was issued and effective, as provided in this Act.

The Department shall have authority, upon the basis of the date submitted with the application and such additional information as it may require or by investigation secure, to ascertain and fix the maximum number of gallons of gasoline on which such person may claim a refund during the period

covered by the permit. The maximum number of gallons so fixed by the Department shall be stated in the permit, but such maximum may be subsequently changed by an amended permit issued as hereinafter provided.

§ 5. *Rules Affecting Both a Seller's Permit and a Purchaser's Permit.*—The same person shall not be permitted, either directly or indirectly, to hold both a Seller's Permit and a Purchaser's Permit.

The Department may, if the applicant has violated any provision of this Act or regulation pursuant thereto; or has been convicted of bribery, theft, or false swearing within the period of five (5) years preceding the application; or if the Department has evidence of the applicant's financial irresponsibility; require the applicant to execute a corporate surety bond of one thousand dollars ($1,000) to be approved by the Department, conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under this Act.

Each Purchaser's Permit and each Seller's Permit shall bear a serial number, and shall state the name and address of the person to whom it is issued, and any agents of said principal who may sign certificates of purchases

The holder of any permit issued under this Act shall, whenever there is a change in the facts stated in the application for such permit, promptly notify the Department of such change and the Department may thereupon issue to the holder an amended permit; or, if in its judgment the facts constitute just cause therefor, suspend or revoke such permit, as is provided in section 14 hereof.

§ 6. *Forms to be Supplied by Department.*—Upon the issuance of the Purchaser's Permit, in accordance with the provisions of section 4 hereof, the Department shall furnish to the applicant four (4) refund application forms in duplicate and a supply of certificate of purchase forms, upon each of which the department shall cause to be placed the serial num-

ber appearing upon the applicant's permit. Each certificate of purchase form shall contain blank space for listing the kind and the number of gallons of refund gasoline purchased; a statement that the same will be used exclusively by the purchaser; the purpose for which it is to be used; that no part thereof will be sold or permitted to be sold; used or permitted to be used as fuel in other than a stationary engine or tractor used for agricultural purposes; the name and address of the person selling the refund gasoline; the date of the last purchase of such gasoline; the quantity purchased; and such other information as the Department may require.

Each refund application form shall contain blanks for listing the name and address of the applicant; the kind and number of gallons of refund gasoline purchased; the amount of excise taxes paid thereon by the applicant; the name and address of the person or persons from whom it was purchased; and a statement that all of said refund gasoline has been exclusively used by the purchaser and that no part thereof has been sold by the applicant or used in any way other than in a stationary engine or tractor operated for agricultural purposes. Said refund application form shall also contain blank spaces for describing the use made of such refund gasoline in such detail as the Department may prescribe, and such other information as required by the Department, including, among other things, the name and post office address of the county attorney of the county in which the applicant lives or has his principal place of business in this State, with a true statement that a duplicate copy of the application for refund has been delivered or properly mailed to said county attorney.

The Department may print and require the use of such other forms as it may deem necessary in the administration of this Act.

§ 7. *Certificates of Purchase.*—The person to whom a purchaser's permit has been issued and who proposes to pur-

chase refund gasoline, shall fill in an original and a duplicate certificate of purchase, and shall sign the original and duplicate at the time of each purchase. The seller of such gasoline shall likewise sign said original and duplicate certificate at the time of the sale, and he shall certify that the amount of gasoline stated therein has been, on the date stated in the certificate, sold and delivered by him to the purchaser whose name appears in said certificate. Neither the original nor the duplicate of said certificate shall be signed by the seller or by the purchaser until each copy of the certificate has been fully filled in, nor until after the amount of gasoline stated therein as being purchased shall have been sold and delivered to the purchaser; provided, however, that an agent for the seller, or an agent for the purchaser, may execute such certificates of purchase in the name of his respective principal, if such agent also sign his own name thereon and shall have been duly authorized by the principal in writing, and recognized by the Department as evidenced on the permit or an amendment thereto.

§ 8. *Refund Applications.*—All applications for refund of excise taxes on refund gasoline under the provisions of this Act, shall be filed with the Department on properly executed forms issued by it to the applicant. Except as provided in the next paragraph of this section, such applications may be filed with the Department only within thirty (30) days after the first day of July, October, January, and April, and each such application shall cover only the refund gasoline used by the applicant during the three (3) calendar months immediately preceding the calendar month in which such application is filed.

Each such application shall be accompanied by the original certificate of purchase executed in accordance with this Act, covering the refund gasoline, as to which claim for refund is made; provided, that if all refund gasoline purchased as indicated on one certificate of sale is not used during any three (3) months period, the applicant shall not make

claim for refund on such fuel until the end of the next period, at which time the applicant shall claim such refund as may be due thereon and no further refund on such certificate of sale may be claimed or allowed. The applicant shall be verified before a Notary Public or any other officer duly authorized to administer oaths.

§ 9. *Audits and Investigation of Refunds.*—The Department is hereby authorized and directed to audit the claims for refund together with the supporting papers as they are filed, and in its discretion, may permit the refund application and the accompanying certificates of purchase to be amended so as to correct unintentional errors.

If, in the opinion of the Department, there appears to be any erasure in a certificate of purchase filed in support of any refund application, or if for any reason the Department doubts the accuracy of the facts set forth in any such application, it shall conduct such investigation as it may deem necessary to determine the true facts and may refer for investigation the matter to the county attorney of the county in which the applicant resides or has a principal place of business or operates a farm in this State; whereupon the county attorney shall make an investigation and report his finding to the Department within sixty (60) days.

If the Department decides that the application or applications filed by an applicant contain a false statement; or that the person claiming the refund has not paid the excise tax for which refund is claimed; or has used or permitted any of the refund gasoline covered by the application to be used in any method other than in a stationary engine or tractor for agricultural purposes; or has knowingly or otherwise allowed anyone else to use the refund gasoline or any part thereof covered by said application, it shall reject said claim for refund and notify the claimant thereof. Provided, however, that if the Department finds that the applicant is indebted to the Commonwealth on account of any tax refund which has

been erroneously paid to the applicant under this Act; or is indebted to the Commonwealth for any delinquent tax liability, it shall decline to approve the claim for refund until the applicant has complied with the law and thus removed the delinquency, whereupon he shall be paid his claim for refund of gasoline taxes in the manner prescribed in this Act if the Department finds that he is justly entitled thereto.

§ 10. *Refunds to be Made.*—When the Department finds that any refund application has been properly executed and that the applicant has complied with the requirements of this Act, it shall promptly approve such application, and credit the amount of excise tax which should be paid thereunder to the applicant, and said approved claim for refund shall be paid without interest, as other claims on the State Treasury are paid, from funds allocated by section 4281g-3 of Kentucky Statutes, for the purpose of the construction, reconstruction, maintenance and repair of roads, highways, and bridges; provided, however, that the total amount of refund gasoline covered by any claimant's application during the period covered by the permit, shall not exceed the maximum amount stated in the original or amended permit issued to the applicant; and provided further, that the amount due to any claimant for any three (3) months may be consolidated with the succeeding three (3) months and paid as one claim if the payment of an approved claim shall not be delayed more than four (4) months.

§ 11. *Records.*—Each seller of refund gasoline to whom a seller's permit has been issued under this Act, shall, in accordance with the Department's requirements, keep at his principal place of business in this State a complete record of all such gasoline sold by him under certificates of purchase provided for in this Act, and shall give the date of each such sale, the amount of refund gasoline sold, the name of the person to whom sold, and the sale price.

Every person to whom a purchaser's permit has been

issued under this Act, shall, in accordance with the Department's requirements, keep at his residence or principal place of business in this State a strict account showing as to each purchase of refund gasoline the amount of such gasoline purchased, the name of the seller, the date of purchase, and a statement of the use made of such gasoline, in such detail as the Department may reasonably require.

The records required to be kept by the sellers and purchasers of refund gasoline shall, at all reasonable hours be subject to inspection by the Department or by any person duly authorized by it therefor, and by the county attorney of the county in which such books and records are herein required to be kept. Such records shall be preserved and shall not be destroyed until one (1) year after the end of the fiscal year during which the refund gasoline to which they relate was sold and purchased.

§ 12. *Claims Not Assignable.*—No permit issued under this Act, and no claim for refund under this Act shall be transferred or assigned. Except as expressly permitted by this Act, no person to whom a form for a certificate of purchase, or for an application for refund has been issued shall permit the same, whether or not it is filled in, to be or remain in the possession of any other person and no seller shall have or keep in his possession any such forms.

§ 13. *Storage of Refund Gasoline.*—Every person to whom a purchaser's permit has been issued shall make provision, in accordance with the Department's requirements, for the storage of refund gasoline, so as to segregate the same from motor fuels other than refund gasoline, and shall take all precautions that may be prescribed by the Department to prevent such refund gasoline being used by the applicant or anyone else except as provided in this Act.

§ 14. *Suspension; Revocation; Criminal Penalties.*—(a) It shall be unlawful for any person to make a false or

fraudulent statement in an application for a permit, or in a certificate of purchase, or in an application for a refund of any taxes under this Act; or to fraudulently obtain a refund of such taxes; or to knowingly aid or assist in making any such false or fraudulent statement or claim; or who, having bought refund gasoline under the provisions of this Act, to use or permit such gasoline or any part thereof to be used for any purpose other than in a stationary engine or tractor for agricultural purposes; or to sell or give refund gasoline to another for his own use; or, if he be not the original purchaser, to use for his own purposes any such gasoline which he knows or has reasonable grounds for believing has been purchased under the provisions of this Act.

(b) The purchaser's permit or the seller's permit of any person who shall violate any provision of paragraph (a) of this section shall be revoked by the Department and may not be reissued until two (2) years shall have elapsed from the date of such revocation, and such person, whether or not his permit has been revoked by the Department, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned not exceeding one (1) year, or both, in the discretion of the court.

(c) The purchaser's permit or the seller's permit of any person who shall violate any provision of this Act, other than those contained in paragraph (a) of this section, may be suspended by the Department for any period in its discretion not exceeding six (6) months.

(d) Any person who shall knowingly violate any provision of this act, other than those contained in paragraph (a) of this section, to which his attention has been expressly called by the Department, or its agents, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

The suspension or revocation of a permit as herein provided shall become effective fifteen (15) days after the date of notice sent the holder thereof at the address shown on his application, unless he shall have been granted a hearing, as provided in the next succeeding scetion.

§ 15. *Appeals.*—Any person who shall deem himself aggrieved by any action of the Department under this Act may within fifteen (15) days from the date of notice thereof, in the manner prescribed and subject to the conditions stated in sections 5 and 5a, Chapter 4 of the Acts of the First Extra Session of the 1938 General Assembly (sections 4114h-5 and 5114h-6 of Carroll's Kentucky Statutes, October 1938 Supplement), petition the Department for a review of such action by the Kentucky Tax Commission. Review may be obtained, and appeals to the Franklin Circuit Court, in accordance with the terms and subject to the conditions prescribed in such sections, may be taken from any final decision upon such petition for review.

§ 16. *Erroneous Refunds.*—If for any reason there shall under the provisions of this Act, be erroneously refunded to any person any excise taxes on gasoline, the Department shall advise the payee by mail of the erroneous refund, and if the payee shall fail within fifteen (15) days thereafter to reimburse the Commonwealth, the amount so refunded, plus twenty per cent (20%) may be recovered in an action instituted, as provided by law, by the Department in the Circuit Court of the county in which such person resides or has his principal place of business in this State. If any such refunds have been made to such person as a result of his false statement or fraudulent action, he shall be liable for the full amount received, plus one hundred per cent (100%) thereof as a penalty which may be collected, plus twenty per cent (20%) of the total thereof, as provided above in this section.

If any seller of gasoline or his agent shall sign a certificate of purchase, knowing or having reason to know that said

gasoline is to be used for any purpose other than in a stationary engine or tractor for agricultural purposes, or in any other manner in violation of this Act, he shall become indebted to the Commonwealth for double the amount of excise taxes imposed thereon by law, which may be recovered by an action instituted by the Department, as provided in the preceding portion of this section, and for which such seller's bond, if required, shall be surety.

All revenues and taxes and the one hundred per cent (100%) penalty thereon, recovered as provided in this section, shall be deposited with the State Treasurer and credited to the Highway Fund. Three-fourths (3/4) of the twenty per cent (20%) collection penalty provided in this section shall be deposited with the State Treasurer and credited to the Delinquent Tax Fund, and the remaining one-fourth (1/4) shall be so deposited and credited to the General Expenditure Fund.

§ 17. *Provision for Administration.*—The Department is hereby authorized to employ such additional persons, in accordance with the provisions of section 4618-90 of Carroll's Kentucky Statutes, 1936 edition, and incur travel, rental, and other current and capital expenses necessary to properly accomplish the purposes of this Act and to protect the gasoline tax revenues of the Commonwealth.

There is hereby established a "Gasoline Tax Refund Expense Account," from which the expenses of the Department equal to the cost of administering this Act, except litigation in the recovery of erroneous refunds, shall be paid. There shall be credited to this account the following:

1. The receipts from the fees which shall accompany the filing of application for seller's permit and purchaser's permit.

2. All fines and penalties, except those provided in section 16 hereof, recovered and payable to the State under or on account of violations of this Act.

3. At the end of each quarterly period of each fiscal year, ten per cent (10%) of all excise taxes on refund gasoline covered by refund claims which have been approved by the Department during such quarter.

The Department may apportion expenses to this fund on the basis of a cost accounting distribution approved by the Department of Finance. As of the first day of July of each year funds then remaining in said special account, except such amount as the Department shall determine to be reasonably necessary to defray the expenses of the administration of this Act during the first quarter of the succeeding fiscal year, shall be transferred therefrom to the General Fund in an amount equal to the amount which the obligations of the Department apportioned to the said special fund may have been less during the fiscal year than the amount paid or to be paid from it; and the remainder shall be transferred therefrom to the Highway Fund for the purpose of the construction, reconstruction, maintenance, and repair of roads, highways, and bridges, as provided by section 4231g-3 of Kentucky Statutes. Should the Department spend more from said fund than is determined as properly apportionable to it, such excess shall be reimbursed to it from the appropriation to the Department for the next fiscal year subject to transfer, as hereinabove provided.

§ 18. *Effective Date.*—With the exception of the grant of authority to the Department to make preliminary preparation for the administration hereof, this Act shall not become effective until September 1, 1940, and it shall expire on October 1, 1942.

No refund shall be allowed on gasoline purchased or used prior to September 1, 1940, and no refund shall be allowed on gasoline purchased or used after October 1, 1942; provided, that this shall not bar refunds on refund gasoline used before October 1, 1942, but for which claim is subsequently made, as provided in this Act.

By Mr. Hunnicutt.

H. B. 278. AN ACT to provide for the purchase of liability and indemnity insurance against negligence of school bus drivers, and authorizing school boards to purchase same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each board of education shall have power and authority to set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school busses owned or operated by the board. The indemnity bond or insurance policy shall be issued by some surety or insurance company or other insurance carrier duly authorized to transact business as such within this Commonwealth, and shall bind the surety, insurance company, or insurance carrier to pay any final judgment or judgments rendered against the insured or policy holder arising out of the death or injury to any school child or school children, for loss or damage to property of any such school children, or death or injury to any person or persons.

§ 2. If the transportation of pupils be let out under contract, then such contract shall provide that the contractor shall carry indemnity or liability insurance against negligence in such an amount as the board of education may require and designate, said indemnity bond or insurance to be provided by a duly authorized surety or insurance company or other insurance carrier as set out in the foregoing paragraph.

§ 3. Whereas there is a vital need to properly protect the school children of the state in going to and returning from school, it is necessary that this legislation be effective immediately, and an emergency is hereby declared to exist and this bill will become law immediately upon its passage and approval by the Governor.

By Mr. White.

H. B. 279. AN ACT amending and re-enacting Section 2097 of Kentucky Statutes, 1936 Edition, relating to marriage

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That, Section 2097 of Carroll's Ky. Statutes 1936, edition be amended and when so amended shall read as follows:

Section 2097. Marriage is prohibited and declared void—

1. With an idiot or lunatic.

2. Between a white person and a negro or mulatto.

3. Where there is a husband or wife living, from which the person marrying has not been divorced.

4. When not solemnized or contracted in the presence of an authorized person or society.

5. When at the time of marriage, the male is under eighteen and the female under sixteen years of age.

By Mr. Ward.

H. B. 280. AN ACT to license pawnbrokers and regulate their business as such; to provide for the violation of the provisions hereof; and, to repeal Chapter 296, Volume 1, Page 28, of the Acts of 1878.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Short Title. This act shall be known as the "Pawnbroking Law".

§ 2. Definitions. In this act, unless the context otherwise requires:

"Pawnbroker" means any person, partnership, association or corporation (1) lending money on the deposit or pledge of personal property, other than choses in action, securities, or printed evidences of indebtedness; or (2) purchasing personal property on condition of selling it back at a stipulated price; of (3) doing business as furniture storage warehouseman and lending money upon goods, wares or merchandise pledged or deposited as collateral security.

"Pledge" means an article or articles deposited with a pawnbroker in the course of his business as defined in the preceding paragraph.

"Pledger" means the person who delivers a pledge into the possession of a pawnbroker, unless such person discloses that he is or was acting for another; and in such event "pledger" means the disclosed principal.

§ 3. License. No person, partnership, association or corporation shall engage or continue in business as a pawnbroker except as authorized by this act and without first obtaining a license from the Director, Division of Banking, Department of Business Regulation, hereinafter called the licensing official.

§ 4. Application. Application for such license shall be in writing and shall state the full name and place of residence of the applicant, or, if the applicant be a partnership, of each member thereof, or, if a corporation or association, of each officer thereof, together with the place or places where the business is to be conducted.

§ 5. License Fee. If such application be approved by the licensing official, he shall issue a license to the applicant upon payment of the license fee and the filing of a bond as hereinafter provided. Such license shall not be assignable. It shall run from the date of its issuance to the end of the calendar year, and shall be renewed each year thereafter. The fee for such license shall be one hundred and fifty dollars ($150) per annum, or a proportionate amount for a period of

less than one year, for each place of business conducted by the licensee as such; which fee shall be in full payment of all expenses of examination under, and administration of, this act. Provided, however, that any pawnbroker who, at the time this act becomes effective, is duly licensed as a pawnbroker under the provisions of Chapter 96, Carroll's Kentucky Statutes, or under authority of any local ordinance or regulation, shall not be required to procure a license or furnish a bond under this act until the expiration of such existing license, but shall nevertheless be subject to all the other provisions of this act.

§ 6. Disposition of License Fees. All license fees received by the licensing official shall promptly be remitted to the State Treasurer, who shall apply the same to the payment of expenses incurred in the administration and enforcement of this act, upon vouchers approved by the licensing official.

§ 7. License Bond. The licensee shall file with the licensing official a bond in the sum of one thousand dollars ($1,000), as principal, with one or more sureties to be approved by the licensing official. The aggregate liability of such sureties shall not exceed the amount stated in the bond. Such bond shall run to the State of Kentucky for the use of the state and of any person or persons who may have cause of action against the principal as licensee under the provisions of this act. The condition of such bond shall be, that the principal will comply with and abide by all the provisions of this act, and will pay to the state or to any person or persons any and all moneys that may become due to the state or to any person or persons from the said principal under and by virtue of the provisions of this act. A separate bond shall be required for each place of business, if more than one, conducted by such licensee. If, in the opinion of the licensing official, the bond shall at any time appear to be insecure or insufficient, he may require either an additional

bond in the sum of not more than one thousand dollars ($1,000), or the cancellation of the existing bond and the execution of a new one, in the same amount. If any person shall be aggrieved by the misconduct of a pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in the name of the state for his own use upon the bond of the pawnbroker in any court having jurisdiction over the amount claimed, provided the licensing official assents thereto.

§ 8. Revocation of License. The licensing official may, upon notice to the licensee and reasonable opportunity to be heard, revoke such license for a violation by the licensee of any provision of this act, or of any regulation promulgated by the licensing official.

§ 9. Posting License. Such license shall be kept conspicuously posted in the licensee's place of business.

§ 10. Removal. Whenever the licensee shall change his place of business he shall at once give written notice thereof to the licensing official, who shall indicate on the license his approval in writing of the change of location.

§ 11. Examinations. The licensing official may at any time, and shall at least once a year, investigate the business of all licensees, either personally or by any person designated by him. For the purpose of such investigation the licensing official or the person designated to act for him shall have free access, during usual business hours, to the licensee's place of business and to the books, papers, records, safes and vaults of such licensee, wherever located within the state, and shall also have authority to examine, under oath, any person whose testimony he may require relative to such business.

§ 12. Regulations. Subject to the provisions of this act, the licensing official may prescribe the form of books and records to be kept by licensees, which shall be preserved for

at least two years from the date of making the loan and be available to parties in interest. He may adopt and promulgate such other rules and regulations, not inconsistent with the provisions of this act, as he may deem necessary for the proper conduct of his office and the enforcement of this act. In the exercise of such power, he shall co-operate with the police or other officials of municipalities for the discovery or restoration of stolen property.

§ 13. Annual Report. Every pawnbroker shall, on or before the first day of February each year, submit to the licensing official in such form as may be prescribed by the latter, a report under oath, giving the number and amount of loans made during the preceding calendar year, the balance of loans outstanding at the close of the year, the maximum and minimum amounts loaned, and rates of interest charged.

§ 14. Original Record. Every pawnbroker shall keep a book in which shall be recorded, in ink, at the time of making each loan, the name and address of the pledger, or, where the pledge is made by a person acting as agent for a disclosed principal, the names and addresses of principal and agent; the date of the transaction, amount of the loan; the article or articles pledged; and the serial number of the loan. There shall also be recorded in such book the date on which each loan was cancelled, and whether it was redeemed or renewed or whether the collateral was sold. In a separate book the licensee shall record in ink all sales of unredeemed pledges, showing the number, date, amount, and duration of each loan, the date of the sale, the amount realized from the sale of the collateral, the amount charged to the pledger as interest, the amount of the surplus or deficit, as the case may be, the date on which, and the person to whom, the surplus, if any, was paid. All entries herein provided for shall be made in the English language.

§ 15. Signature of Pledger. The pawnbroker shall at the time of making a loan require the pledger or his agent

to write his signature and address on a card bearing the serial number of the loan corresponding to that recorded in the pawnbroker's book as provided in the last preceding section. If such person is unable to write he shall sign by mark, and in such event the pawnbroker shall record on the signature card such information as will enable him to identify the person in case of the loss of the ticket.

§ 16. Pawn Ticket. The pawnbroker shall at such time deliver to the pledger or his agent a memorandum or ticket on which shall be legibly written or printed the name of the pledger; the name of the pawnbroker and the place where the pledge is made; the article or articles pledged; the amount of the loan; the date of the transaction; the serial number of the loan; the rate of interest; and a copy of Sections 23 and 25 of this act. A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with the provisions of this act; provided, however, that nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligation to exercise reasonable care in the safe-keeping of articles pledged with him.

§ 17. Negotiability of Ticket. Except as otherwise herein provided, the holder of such ticket shall be presumed to be the person entitled to redeem the pledge; and the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal and interest.

§ 18. Redemption by Mail. When a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order or bank draft for the amount due, including the charges for shipment as desired, and twenty-five cents for packing, the pledge shall be securely packed and forwarded by the pawnbroker in accordance with the remitter's instructions, if any. If the remittance is insufficient to cover the amount due, the charges of shipment as desired, and packing, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge

subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery thereof to the carrier or his agent.

§ 19. Payment of Installments. Upon the presentation of the ticket and the tender of not less than $5.00 as an installment on the principal, together with accrued interest, the pawnbroker shall accept the same and issue a new ticket for the reduced amount.

§ 20. Loss of Ticket. If such ticket be lost, destroyed, or stolen, the pledger shall so notify the pawnbroker in writing. The receipt of such notice shall be treated by the pawnbroker as a stop against the loan, and thereafter the provisions of the three last preceding sections shall not apply to such loan. Before delivering the collateral or issuing a new ticket, in such event, the pawnbroker shall require the pledger to make affidavit of the alleged loss, destruction, or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest; and the pawnbroker shall incur no liability for so doing, unless he has previously received written notice of any adverse claim.

§ 21. Altered Tickets. The alteration of a ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve him of any other liability to the pledger or holder of the ticket.

§ 22. Counterfeit Tickets. If a ticket is presented to a pawnbroker which purports to be one issued by him, but which is found to be spurious, the pawnbroker may seize and retain the same without any liability whatsoever to the holder thereof. Any such ticket so seized shall be delivered to the licensing official.

§ 23. Rates of Interest. A pawnbroker shall not charge or receive interest on loans in excess of 3 per cent a month,

computed exactly on unpaid balances; provided, however, that on loans redeemed within the first month he may charge a month's interest, and provided, further, that he may charge a minimum of 25 cents where the interest herein allowed amounts to less. If a pawnbroker charges or receives interest in excess of that herein provided, or makes any charges not authorized by this act, he shall forfeit principal and interest and shall return the pledge upon demand of the pledger and surrender of the pawn ticket, without tender of principal or interest. If such excessive or unauthorized charges have been paid by the pledger, he may recover the same, including the principal, if paid, in a civil action against the pawnbroker.

§ 24. Care of Pledge. A pawnbroker shall be liable for the loss of a pledge or part thereof, or for injury thereto, whether caused by fire, theft, burglary, or otherwise, resulting from his failure to exercise reasonable care in regard to it; but he shall not be liable, in the absence of an express agreement to the contrary, for the loss of a pledge or part thereof, or for injury thereto, which could not have been avoided by the exercise of such care. The burden of proof to establish due care shall be upon the pawnbroker.

§ 25. Sale of Pledge. All unredeemed pledges may be sold by the pawnbroker, but not before the expiration of twelve months, nor later than the expiration of eighteen months, from the date of the loan, unless otherwise agreed in writing between the pawnbroker and the pledger, or authorized by the licensing official for due cause shown. No pledge shall be sold unless written or printed notice thereof has first been mailed to the last known address of the pledger at least twenty days prior to the date of sale. The proceeds of such sale shall be applied to the loan. The surplus, if any, shall be paid to the pledger or any one else who would have been entitled to redeem the pledge if it had not been sold. If a surplus be not paid or claimed within five years from the date on which it accrued, it shall revert to the pawnbroker for

his own use and benefit. Interest on unpaid surplus at the rate of 6 per cent per annum shall accrue only after the pawnbroker's refusal to pay the same upon lawful demand therefor.

§ 26. Pawnbroker's Lien on Pledge. A pawnbroker shall have a first lien on all pledges for the amount of his loan and interest in all cases except where the pledging or possession thereof by the pledger constituted larceny at the common law, or except where a prior lien exists by virtue of any other statute.

§ 27. Ticket Must Be Surrendered or Impounded. Except as otherwise provided in this act, a pawnbroker shall not be required, by legal process or otherwise, to deliver a pledge except upon surrender of the ticket, unless the ticket be impounded or its negotiation enjoined by a court of competent jurisdiction.

§ 28. Adverse Claims. If more than one person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. In case of an action brought against the pawnbroker for recovery of the pledge, he may as a defense require all known claimants to interplead. If no action be brought against the pawnbroker by either party within the period for which he is required under Section 25 hereof to hold the pledge, or within thirty days after notice of an adverse claim, he may proceed to sell the pledge and hold the surplus, if any, subject to adjudication or other adjustment of the parties' rights.

§ 29. Prohibited Transactions. A pawnbroker shall not: 1. Accept a pledge from any person who is under the age of sixteen years. 2. Transact any business on Sunday; nor between the hours of six o'clock in the evening and seven o'clock in the morning; provided, however, that on Saturday he may transact business up to the hour of ten o'clock P.M.

§ 30. Penalties. Any person, partnership, association

or corporation who or which violates either Section 3, Section 23, Section 25 of this act, or commits any fraud in the course of his business, shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars ($300) or by imprisonment for not more than six months, or by both fine and imprisonment, in the discretion of the court.

§ 31. Interpretation to Secure Uniformity. This act shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 32. Constitutionality. If any section or provision of this act be decided by the courts to be unconstitutional or invalid, such adjudication shall not affect the validity of the act as a whole or of any other portion thereof which can be given reasonable effect without the provision held to be unconstitutional or invalid.

§ 33. Repealer. Chapter 296 of the Acts of 1878, the same being Chapter 96, Section 3787 to 3794 inclusive of Carroll's Kentucky Statutes Annotated, and all other Acts or parts of Acts inconsistent herewith are hereby repealed.

§ 34. Emergency. It being the desire of the Legislature to regulate effectively the business of pawnbrokers, an emergency is declared to exist, and it is enacted that this Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Ennis.

H. B. 281. An Act amending and re-enacting Section 1954d-43 Carroll's Kentucky Statutes, Baldwin's Supplementary Revision, 1938, which provides limitations on number of fish to be taken by providing protection for channel cat of twelve inches or less in length.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1954d-43, Carroll's Kentucky Statutes, Baldwin's Supplementary Revision, 1938, be and the same is amended and re-enacted by adding in the middle of the ninth line after the words "crappie under eight inches in length" the following words: "nor any channel cat twelve inches or less in length", so that said Section 1954d-43 as amended and re-enacted shall read as follows, to-wit:—

§ 1954d-43. No person shall take or have in his possession more than ten black bass nor more than ten trout nor more than fifteen rock bass or goggle-eye nor more than fifteen crappie in any one day nor take nor have in his possession any black bass under eleven inches in length nor any trout under seven inches in length nor any crappie under eight inches in length, nor any channel cat twelve inches or less in length; provided, however, that any person having fished two days in succession may have in possession a total not to exceed twenty black bass or trout, thirty rock bass or goggle-eye or thirty crappie.

By Mr. Brim.

H. B. 282. An Act to amend Section 4214a-13, 4214-15 and 4214a-17 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4214a-13 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Every person engaged or proposing to engage in manufacturing, selling and transporting distilled spirits in this state, for lawful uses and purposes, shall obtain a permit from the Department of Revenue for that privilege, and shall,

at the time the permit is issued, pay to the state, in addition to the license taxes imposed by law, an excise tax of *ten* cents for each proof gallon of distilled spirits for which the permit is issued. Permits heretofore issued shall remain in force and effect until the distilled spirits for which they were issued have been manufactured, sold and transported.

§ 2. Section 4214a-15 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Every person engaged or proposing to engage in the business or occupation in this state of blending, rectifying or mixing distilled spirits, and the sale and transportation thereof, for lawful uses and purposes, shall obtain a permit from the Department of Revenue for that privilege, and shall pay to the state, in addition to the license taxes imposed by law, an excise tax of *ten* cents for each proof gallon of distilled spirits for which the permit is issued.

(2) No tax is required to be paid for such distilled spirits used in blending, rectifying or mixing as were hereto fore or shall hereafter be manufactured in this state or which have borne the tax imposed by section 4214a-13 or 4214a-17.

(3) Every person engaging in the business or occupation of blending, rectifying or mixing distilled spirits shall report to the Department of Revenue, on or before the tenth day of the succeeding month, in such form and stating such facts as the Department prescribes, the amount of distilled spirits blended, rectified or mixed during the preceding month, and shall at the same time pay the tax.

§ 3. Section 4214a-17 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Every person who purchases distilled spirits and has them shipped into this state from points without the state, as provided in section 4214a-16, shall at the time the permit is issued pay a license tax thereon at the rate of *ten* cents for each proof gallon contained in the shipment.

By Mr. Stuart.

H. B. 283. An Act for the protection of the public buildings and properties of the Commonwealth.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1261 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) No person shall in any manner damage the old or new state capitol, or any of the state offices or office buildings; or damage or carry away the fencing, walls, gates, pavements, walks, trees, grass, shrubbery or any fixture on or around the capitols or state office buildings; or throw any missile or erect a nuisance thereon; or damage or carry away any equipment, funishings or documents therein; or play any game, engage in any sport or any noisy or riotous conduct or lie drunk or asleep in or about the capitols and state office buildings, or in any other way interfere with the quiet and orderly maintenance thereof.

(2) The custodians and night watchmen designated by the Division of Purchases and Public Property of the Department of Finance are vested with the powers of peace officers to enforce this section and to arrest persons violating this section.

§ 2. Section 1348 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

By Messrs. Shaikun and Fitzpatrick.

H. B. 284. AN ACT relating to alcoholic beverages, repealing, amending, and re-enacting Section 17 of Chapter 2 of the Acts of the General Assembly of 1938; and Sections 1 and 2 of Chapter 5 of the Acts of the General Assembly at the 1st Extraordinary Session of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Repeal, amend and re-enact Section 17 of Chapter 2 of the Acts of the General Assembly of 1938, so that when amended and re-enacted it shall read as follows:

City Licenses and Taxes; Provisions Concerning. The city council, board of aldermen, or other municipal legislative body of each incorporated city in this Commonwealth in which traffic in alcoholic beverages is permitted under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the city clerk immediately to notify the State Alcoholic Beverage Control Board of the amount of the taxes fixed. Only such licenses may be issued as correspond in their provisions and the business authorized, to the licenses provided for in subsections one, two, four, five and six of Section 18 of Chapter 2 of the Acts of the General Assembly of 1938, and subsections six and seven of Section 29 of the Acts of the General Assembly of 1938, and subsection one, two, three and six of Section 96 of the Acts of the General Assembly of 1938. The license fees or taxes imposed shall in no event exceed twice the amount of the fees or taxes imposed in sections 18, 29 and 96 of Chapter 2 of the Acts of the General Assembly of 1938, except that the fee or tax imposed upon beer retailers may be fixed at any sum not exceeding two hundred ($200) dollars, and except that no brewers license shall exceed five hundred ($500) dollars, and except that no distillers license shall exceed five hundred ($500) dollars. The licenses authorised by this section shall be issued and the taxes collected by such appropriate municipal official as may be designated by ordinance, and he shall report and pay to the city treasurer at the end of

each month such taxes as he has collected. No license shall be issued by the clerk without the approval of the City Administrator, if there be one in the City. The licenses shall be issued in such form as may be prescribed by the City Administrator, if there be one in the City, or by the State Control Board if there be no City Administrator.

§ 2. Repeal, amend and re-enact Section 1 of Chapter 5 of the Acts of the General Assembly at the 1st extraordinary session of 1938 so that when amended and re-enacted it shall read as follows:

Closing Hours and Times. No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and eight o'clock a. m., or at any time during the twenty-four hours of a Sunday or of an election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen, or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictonal boundares, and except further that the fiscal court of each conty in which cities of the first, second or third class are located, shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of of such cities, except any portion in which distilled spirits

and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four hours between six a. m., Sunday and six a. m., Monday, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

§ 3. Repeal, amend and re-enact Section 2 of Chapter 5 of the Acts of the General Assembly at the 1st extraordinary session of 1938 so that when amended and re-enacted it shall read as follows:

Hours of Doing Business. It shall be unlawful for any brewer or distributor to deliver any malt beverages between the hours of 7:00 P. M. and 6:00 A. M. except on Saturdays when the hours of such deliveries shall be between 6:00 A. M. and midnight, or on Sunday at any time. It shall be unlawful for any beer retailer to sell, give away or deliver any malt beverages between the hours of midnight and 6:00 A. M. or at any time during the twenty-four hours of a Sunday or an election day; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in malt beverages is permitted under sections 2554c-1 to 2554c-2 of Carroll's Kentucky Statutes, 1936 edition, shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which malt beverages may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located, shall have the exclusive right and power to establish the hours and times in which malt beverages may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which malt beverages are prohibited from being sold. Provided however,

that no malt beverages may be sold on any election day while the polls are still open.

By Mr. Walters.

H. B. 285. AN ACT to amend section 3146 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3146 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Each city of the second class shall have a police court, to be presided over by one judge, to be elected as provided in section 3172. The judge shall receive for his services a salary to be fixed by the general council in a sum not less than three thousand dollars nor more than forty-eight hundred dollars per annum, and shall receive no other compensation except the fees allowed by law to judges for holding examining trials in felony cases. No person shall be eligible to the office of police judge who at the time of election is not twenty-five years of age and who has not been a resident of the city and a licensed practicing Attorney for four years.

By Mr. Fallis.

H. B. 286. AN ACT to repeal Chapter 4, Sections 1 to 16, inclusive, of the 1936 Third Extraordinary Special Session of the General Assembly, compiled as Sections 4281e-1 to 4281e-16 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it encated by the General Assembly of the Commonwealth of Kentucky:

That Chapter 4, Sections 1 to 16, inclusive, of the 1936

Third Extraordinary Special Session of the General Assembly of the Commonwealth of Kentucky compiled as Sections 4281e-1 to 4281e-16, inclusive, of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be, and the same is hereby repealed.

By Mr. Bosworth.

H. Res. 43. RESOLUTION authorizing the personal representative of Harvey Miller, deceased, to file and prosecute a suit against the Commonwealth of Kentucky and the State Board of Charities and Corrections, or either of them.

Said resolution is as follows, viz.:

WHEREAS, one Harvey Miller was confined in the State Penitentiary at LaGrange, Kentucky, and was confined in the prison yard with, and next to, another prisoner who was in possession of a vicious and deadly weapon which was then being used by said prisoner while he and said Harvey Miller were engaged in prison work; which other prisoner was serving a term of years for murder and which other prisoner is alleged to have been known to be homicidially inclined and to be dangerous, especially to said Harvey Miller, as he and said other prisoner had previously had trouble, of which, the authorities in charge of said prison had knowledge, and said Harvey Miller, while confined in said prison yard with said prisoner in said penitentiary, was murdered by said other prisoner, allegedly by and through negligence and carelessness on the part of the prison authorities, and employees of the Commonwealth of Kentucky, and the State Board of Charities and Corrections,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the personal representative of the said Harvey Miller, deceased, be and the said personal representa-

tive is hereby permitted, empowered and authorized to file and proscute appropriate action against the Commonwealth of Kentucky and the State Board of Charities and Corrections, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Board of Charities and Corrections, or either of them, for the injury and death of the said Harvey Miller and the damage to his estate thereby, if any there be; and in the event any judgment in such action is recovered by the said personal representative of said Harvey Miller, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn upon the State Treasurer and paid out of the general fund, or the fund provided for the maintenance and operation of penal and charitable institutions, or whichever of said funds the said Commonwealth of Kentucky, and the said State Board of Charities and Corrections may designate.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the liability, claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil case.

§ 3. Said action may be brought in the Franklin Circuit Court, or the Oldham Circuit Court, or the Bell Circuit Court, or the circuit court of any County of Kentucky having jurisdiction of the parties and subject matter the limit of liability shall be five thousand ($5,000.00) dollars for the death of the said Harvey Miller and the damages to his estate.

By Mr. Shehan.

H. Res. 44. RESOLUTION authorizing John D. Hampton, The Pure Oil Company, Coal City Petroleum, Southern Dairies, Incorporated, and Willard B. Morrison to sue the Commonwealth of Kentucky and the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, the State Highway Commission of Kentucky was the owner of a certain truck or motor vehicle on or about the 13th day of July, 1939, which was being used in connection with the construction and maintenance of public roads and highways in Kentucky, and

WHEREAS, said truck or motor vehicle was on or about the 13th day of July, 1939, being operated for said purposes by said State Highway Commission, through its agents and employees, in Harlan County, Kentucky, on U. S. Highway No. 66 near Cawood, Kentucky, when said truck or motor vehicle caught on fire, and,

WHEREAS, the State Highway Commission, through its agents and employees, negligently and carelessly caused said truck or motor vehicle, while same was on fire and burning, to be driven on, around, near and against the property owned by John D. Hampton, near Cawood, Kentucky, causing said property to catch fire, burn and completely destroy same, including his buildings thereon and his personal property located therein, and also personal property of the Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, and Willard B. Morrison, which said personal property was also located therein, and,

WHEREAS, by reason of the negligence and carelessness aforesaid the said John D. Hampton, The Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, and Willard B. Morrison have been damaged by the loss of their property which was not insured and for which they have received no compensation whatsoever, and,

WHEREAS, said John D. Hampton, The Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, and Willard M. Morrison allege and claim that said damage and loss of their property was caused entirely by the negligence and carelessness of the State Highway

Commission, through its agents and employees, and if same was so caused and said John D. Hampton, The Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, and Willard B. Morrison should be compensated therefor; therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That John D. Hampton, The Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, and Willard B. Morrison be and they are hereby authorized and permitted to separately sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, in the Harlan Circuit Court for such damages, if any, they may have sustained by reason of any damage by the loss of their property through the negligence and carelessness of the State Highway Commission of Kentucky, its agents or employees, and in the event any judgment is recovered by the said John D. Hampton, The Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporated, or Willard B. Morrison in said suits for damages for the loss of their property, same shall be paid by the Auditor by warrants drawn on the State Treasury and paid out of the general fund.

§ 2. Either party to said suits may appeal from any judgment which may be rendered in the Harlan Circuit Court to the Court of Appeals of Kentucky and the cases may be compromised and settled with the consent of the Attorney General of Kentucky in the same way as any other civil suit.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced or reported by the Senate, as follows, viz.:

S. B. 5. To Committee on Kentucky Statutes No. 1.

S. B. 28. To Committee on Circuit Courts.

S. B. 48. To Committee on Cities of the Third Class.

S. B. 53. To Committee on Criminal Law.

S. B. 56. To Committee on Public Utilities.

H. B. 240. To Committee on Appropriations No. 1.

H. B. 241. To Committee on Education No. 1-A.

H. B. 242. To Committee on County and City Courts.

H. B. 243. To Committee on Roads and Highways No. 1-A.

H. B. 244. To Committee on Miscellaneous Affairs.

H. B. 245. To Committee on Agriculture No. 1.

H. B. 246. To Committee on Agriculture No. 1.

H. B. 247. To Committee on Education No. 1.

H. B. 248. To Committee on Revenue and Taxation No. 1.

H. Res. 35. To Committee on Claims.

H. Res. 37. To Committee on Appropriations No. 1.

H. Res. 36. To Committee on Claims.

Mr. Ward moved that House Resolutions Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 be recommitted

to the Committee on Claims with instructions that the Committee on Claims hold hearings on said Resolutions and that said resolutions retain their place in the Orders of the Day.

Said motion was agreed to.

The House took up for consideration form the Orders of the Day, a bill entitled:

H. B. 88. AN ACT to amend and re-enact section 3181 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3181 of Carroll's Kentucky Statutes, 1936 Edition, be, and the same hereby is, amended and re-enacted so that when the same is so amended and re-enacted it shall read as follows:

"Section 3181. Board of equalization; qualifications; compensation; chairman and clerk; general powers and duties.—There shall be a board of equalization to consist of three persons, who shall be selected by the board of commissioners. No person shall be selected as a member of said board who shall not at the time be a housekeeper and owner of real estate of the city, and shall not have been a resident thereof five years next preceding his election. Said board shall be paid such compensation as may, by ordinance, be fixed, and shall meet at a suitable place to be provided by the city on the first Monday in January of each year. They shall first be duly sworn faithfully to discharge their duties, shall elect from among themselves a chairman and a clerk and shall then notify the commissioner of public finance that they are ready to receive the assessment books, etc., which the commissioner of public finance shall deliver them, taking his receipt therefor. The assessor shall be in constant attend-

ance on said board and shall furnish them all information he can. They shall have power to cause all city records to be brought to them for their inspection by the custodian thereof, and if it be necessary to retain them for defense, may do so by receipting therefor to the custodian thereof. They may also interrogate any city official, who shall, at their request, attend them and respond to all questions.

"They shall each have power to administer oaths, and they shall have power to compel the attendance of witnesses, and all persons who shall refuse to attend them or to be sworn by them, or refuse to answer any questions, shall be subject to the same penalties as provided for like refusal to the assessor. They shall first compare his real estate assessment with the plat books in the auditor's office and see that every parcel of real estate in the city has been assessed, and if they find any has been omitted, shall certify the same, giving the number of parcels omitted to the city solicitor, who shall enforce the penalty provided in Section 3177 against the assessor for so doing, and they shall assess the parcels omitted. They shall hear all complaints against the assessment made by the assessor and shall determine the same.

"They shall increase or decrease assessments on like property to make all assessments as uniform as may be, or to place a true value on the property assessed; but no increase shall be made without notice to the persons whose property is to be increased, and they may in the assessment of real estate increase or decrease all assessments uniformly by adding or subtracting a percentage of the assessments, which action in increasing or decreasing such assessments uniformly shall be effected by the adoption of a resolution or the making of an order by said board of equalization, which shall bear the signatures of at least two (2) members of said board of equalization, and a notice of such increase need not be given except by publication in the official newspaper of the city.

"Said board shall remain in session as long as the busi-

ness may require, but not to exceed four weeks, unless the board of commissioners shall for cause stated extend the time of the sitting of said board of equalization. A majority of a quorum may determine any question before it. No change in any assessment may be made by erasure, but there shall be appropriate columns for all changes and additions, and the same shall be made in a different colored ink from that which the assessor has used.

"When said board shall have completed its labors it shall prepare a statement of the gross assessments of real property and the gross assessments of personal property, and the sum thereof, and also showing the increase or decrease, if any, in the total assessment made by them, under their signatures, which they shall return to the commissioner of public finance or city treasurer with all the assessments books, plats and papers received from him, taking his receipt for the same, and which shall be transmitted to the board of commissioners forthwith.

"But it is further provided, that in any instance where the assessment of any property is increased by the board of equalization as herein authorized, except the uniform increase of assessments as herein provided, any tax payer feeling himself aggrieved by the action of such board of equalization, may appeal to the circuit court within thirty days after the final adjournment of said board, by filing with the clerk of said court under the hand of the clerk of said board a certified copy of the action of said board. And it shall be the duty of the clerk of such board to furnish, on demand, to any taxpayer whose assessment has been increased by said board as herein provided, such certified copy of the action of said board as may be nceessary for such appeal. Said appeal shall be tried by the circuit court without the intervention of a jury, and either party shall have the right to appeal to the court of appeals where the rights may exist as in other civil cases, and under the rules governing appeals in other civil cases. In

the trial of such appeals in the circuit court, the burden shall be upon the person appealing to show that his property has been inequitably assessed as compared to other like property in the vicinity thereof. The cost of such appeal shall be adjudged against the unsuccessful party."

§ 2. All acts and parts of acts in conflict herewith are to the extent of such conflict hereby repealed.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Louis B. Dugan	J. B. Jarboe, Jr.
J. Everett Bach	Forest C. Easley	Chas. X. Jones
H. T. Baker	D. E. Edwards	John S. Juett
Wm. T. Beard	Harry W. Ennis	William K. King
Alvis S. Bennett	R. R. Ernst	W. A. Lamkin, Jr.
Rell Bevins	Carlos Fallis	Robert E. Lee
Sterling B. Blake	T. P. Fitzpatrick	Harvey D. Leonard
J. F. Bosworth	Cecil Florence	Edward Leslie
W. S. Brim	Wayne Freeman	W. Paul Lyon
Gus A. Brooks	Eugene Gough	C. C. May
Randolph A. Brown	Van Y. Greene	Frank C. McElwain
Haynes Carman	Ralph C. Hamilton	E. Hayes McMakin
Charles M. Carter	C. L. Hammons	Norris McPherson
James W. Chapman	T. H. Hickey	Stanley C. Moebus
S. B. Chrisman	Clyde S. Howard	John B. Mollette
John Coulter	Chester Huffines	Davis Moore
John H. Cox	John M. Hunnicutt	J. Lee Moore
Pink G. Curd	W. H. Hunt	Joe T. Morgan
Stanley S. Dickson	R. L. Jackson	C. Homer Neikirk

Carl D. Perkins	Ray O. Shehan	Erna E. Tyra
B. W. Porter	Faust Y. Simpson	J. Wood Vance
H. O. Porter	Otto Smither	Walter R. Vansant
Hobart Rayburn	E. T. Sparks	S. J. Wagner
Thomas Rigdon	J. Claude Stacy	Porter Wallace
W. H. Riley	Ray J. Stengel	Harry F. Walters
Lyman Roll	Henry Stewart	Henry Ward
Jack Savage	W. St. Clair Stuart	H. L. Waterfield
Carl Scheben	T. M. Swope	Otis White
Leon J. Shaikun	Otis C. Thomas	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 19. An Act to repeal sec. 574 of the Code of Practice in Civil Cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Mr. Brown moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 20. An Act to amend and re-enact Sections 317, 326, 327, 328 of the Civil Code of Practice so as to permit the finding of Special Verdicts by juries in addition to general or separate-general verdicts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 317, 326, 327 and 328 of the Civil Code of Practice be, and the same are hereby, amended to read as follows:

Sec. 317. When the jury has been sworn, the trial shall proceed in the following order, unless the court, for special reasons, otherwise directs:

1. The plaintiff must briefly state his claim and the evidence he expects to sustain it.

2. The defendant must then briefly state his defense and the evidence he expects to offer in support of it.

3. The party on whom rests the burden of proof, in the whole action, must first produce his evidence; the adverse party will then produce his evidence.

4. The parties will then be confined to rebutting evidence, unless the court, for good reasons in furtherance of justice, permits them to offer evidence in chief.

5. When the evidence is concluded, but before the argument to the jury, either party may require the court to direct the jury to find a separate-general verdict, or the court, in its discretion, may, without motion or upon motion of a party require the jury to find a special verdict upon any material issue or issues of fact. If a special verdict be so required, the questions of law may be reserved by the court until after verdict, but if a general verdict be required, either party may ask written instructions to the jury on points of law, which shall be given or refused by the court before the commencement of the argument to the jury.

6. The parties may then submit or argue the case to the jury. In the argument, the party having the burden of proof shall have the conclusion and the adverse party the opening. If there be more than one speech on either side,

or if several defendants having separate defenses appear by different counsel, the court shall arrange the relative order of argument.

Sec. 326. The verdict of a jury is general or separate-general or special.

1. A general verdict is that by which the jury pronounces generally, upon all the issues, for the plaintiff or for the defendant.

2. A separate-general verdict is the finding, upon any of the issues, in favor of the plaintiff or of the defendant.

3. A special verdict is the finding of facts by a jury, as shown in their answers to questions submitted to them in writing by the court.

Sec. 327. Unless otherwise directed, the jury may find a general, or a general and separate-general, verdict, or a special verdict, with or without a general, or a separate-general verdict; but the court may without motion, or upon the motion of a party shall, direct the jury to find:

1. A separate-general verdict, as to any issue; and with such finding the jury shall also return a general verdict; and, if the separate-general verdict be inconsistent with the general verdict, judgment shall be rendered pursuant to the former; or,

2. A special verdict; and, on such finding, the jury shall return a special verdict only; and the court shall render judgment upon it.

Sec. 328. If a general and a special verdict be inconsistent, judgment shall be rendered pursuant to the latter.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. P. Fitzpatrick	B. W. Porter
J. Everett Bach	Wayne Freeman	H. O. Porter
H. T. Baker	Eugene Gough	Thomas Rigdon
Robert E. Barry	Van Y. Greene	W. H. Riley
Wm. T. Beard	Ralph C. Hamilton	Lyman Roll
Alvis S. Bennett	C. L. Hammons	Jack Savage
Rell Bevins	T. H. Hickey	Carl Scheben
Sterling B. Blake	Clyde S. Howard	Leon J. Shaikun
Douglas T. Bolling	Chester Huffines	Ray O. Shehan
J. F. Bosworth	John M. Hunnicutt	Faust Y. Simpson
W. S. Brim	W. H. Hunt	Bruce Sloan
C. J. Bronston	R. L. Jackson	Otto Smither
Gus A. Brooks	J. B. Jarboe, Jr.	E. T. Sparks
Randolph A. Brown	Chas. X. Jones	J. Claude Stacy
Haynes Carman	John S. Juett	Ray J. Stengel
Charles M. Carter	W. A. Lamkin, Jr.	Henry Stewart
James W. Chapman	Robert E. Lee	W. St. Clair Stuart
S. B. Chrisman	Edward Leslie	Otis C. Thomas
John Coulter	W. Paul Lyon	Erna E. Tyra
John H. Cox	C. C. May	J. Wood Vance
Pink G. Curd	Frank C. McElwain	Walter R. Vansant
Stanley S. Dickson	E. Hayes McMakin	S. J. Wagner
Louis B. Dugan	Norris McPherson	Porter Wallace
Forest C. Easley	Stanley C. Moebus	Henry Ward
D. E. Edwards	Davis Moore	H. L. Waterfield
Harry W. Ennis	J. Lee Moore	Otis White
R. R. Ernst	C. Homer Neikirk	James H. Woods
Carlos Fallis	Carl D. Perkins	—83

Those who voted in the negative were—

Harvey D. Leonard John B. Mollette —2

Resolved that the title thereof be as aforesaid.

Mr. Brown moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 68. An Act to repeal subsec. 9 of section 518 of the Civil Code of Practice of Kentucky.

Mr. Hunnicutt moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took for consideration from the Orders of the Day a bill entitled:

H. B. 107. An Act to amend and re-enact Sec. 110, Carroll's Kentucky Statutes, Baldwin's 1936 revised edition, relative to certain officers who are not permitted to practice law.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

Mr. Moebus moved that said bill be laid on the Clerk's desk.

H. B. 33. An Act amending and re-enacting Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision, relating to the inadmissibility of confessions obtained by sweating.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1649-3 of Carroll's Kentucky Statutes, Baldwin's Revision of 1930, be and the same is amended and re-enacted, and as so amended and re-enacted shall read as follows:

Section 1649b-3. Not admissible. No confession obtained by means of sweating, as defined herein, shall be permitted as evidence in any court in this state, but same shall be deemed to have been obtained by duress, if it be shown that such confession was made after the arrest of the party charged with crime and while he was in custody of the law. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this statute from evidence heard by him, independent of and without the hearing of the jury trying the case.

Mr. Perkins moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Robert E. Barry	Rell Bevins
J. Everett Bach	Wm. T. Beard	Sterling B. Blake
H. T. Baker	Alvis S. Bennett	Douglas T. Bolling

J. F. Bosworth	T. H. Hickey	Hobart Rayburn
W. S. Brim	Clyde S. Howard	Thomas Rigdon
C. J. Bronston	Chester Huffines	Lyman Roll
Gus A. Brooks	John M. Hunnicutt	Jack Savage
Randolph A. Brown	W. H. Hunt	Carl Scheben
Haynes Carman	R. L. Jackson	Leon J. Shaikun
Charles M. Carter	Chas. X. Jones	Ray O. Shehan
James W. Chapman	John S. Juett	Faust Y. Simpson
John Coulter	W. A. Lamkin, Jr.	Bruce Sloan
John H. Cox	Robert E. Lee	Otto Smither
Pink G. Curd	Harvey D. Leonard	E. T. Sparks
W. Q. Daniel	Edward Leslie	Henry Stewart
Stanley S. Dickson	C. C. May	W. St. Clair Stuart
Louis B. Dugan	Frank C. McElwain	Otis C. Thomas
D. E. Edwards	E. Hayes McMakin	Erna E. Tyra
Harry W. Ennis	Norris McPherson	J. Wood Vance
R. R. Ernst	Stanley C. Moebus	Walter R. Vansant
Carlos Fallis	John B. Mollette	S. J. Wagner
T. P. Fitzpatrick	Davis Moore	Porter Wallace
Cecil Florence	J. Lee Moore	Harry F. Walters
Wayne Freeman	Joe T. Morgan	Henry Ward
Eugene Gough	C. Homer Neikirk	H. L. Waterfield
Van Y. Greene	Carl D. Perkins	Otis White
Ralph C. Hamilton	B. W. Porter	James H. Woods
C. L. Hammons	H. O. Porter	—83

Resolved that the title thereof be as aforesaid.

Mr. Perkins moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 89. An Act to amend Section 965, Carroll's Kentucky Statutes, 1936 edition, and changing the time of hold-

ing court in the Thirty-first Judicial District composed of Floyd and Knott Counties, and fixing the time therefor, relating to Circuit Court and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965 of Carroll's Kentucky Statutes, 1936 Edition, be and the same is amended with reference to the Thirty-first Judicial district of Kentucky, and such amendment shall read as follows:

That a Circuit Court shall be held in Floyd County, as follows: At Prestonsburg, Kentucky, beginning on the first Monday in January and continuing twenty-four (24) juridical days; begining on the first Monday in February and continuing twenty-four (24) juridical days; beginning on the first Monday in April and continuing twenty-four (24) juridical days; beginning on the first Monday in May and continuing twenty-four (24) juridical days; beginning on the first Monday in September and continuing twenty-four (24) juridical days; beginning on the first Monday in October and continuing twenty-four (24) juridical days.

That a Circuit Court shall be held in Knott County, as follows: At Hindman, Kentucky, beginning on the first Monday in March and continuing twenty-four (24) juridical days; beginning on the second Monday in July and continuing eighteen (18) juridical days; beginning on the second Monday in November and continuing twenty-four (24) juridical days.

§ 2. Owing to the congested condition of the dockets in said Thirty-first Judicial District, and the inconvenience in connection with the holding of court in said district, as same are now fixed, an emergency is hereby declared to exist and this act shall become effective upon its passage and approval by the Governor.

§ 3. All Acts and parts of Acts in conflict herewtih are repealed.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Cecil Florence	Joe T. Morgan
Robert E. Barry	Wayne Freeman	C. Homer Neikirk
Wm. T. Beard	Eugene Gough	Carl D. Perkins
Alvis S. Bennett	Van Y. Greene	B. W. Porter
Rell Bevins	C. L. Hammons	H. O. Porter
Douglas T. Bolling	T. H. Hickey	Hobart Rayburn
J. F. Bosworth	Clyde S. Howard	Thomas Rigdon
W. S. Brim	Chester Huffines	W. H. Riley
Gus A. Brooks	John M. Hunnicutt	Lyman Roll
Randolph A. Brown	W. H. Hunt	Jack Savage
Haynes Carman	R. L. Jackson	Carl Scheben
Charles M. Carter	J. B. Jarboe, Jr.	Leon J. Shaikun
James W. Chapman	Chas. X. Jones	Ray O. Shehan
S. B. Chrisman	Robert E. Lee	Faust Y. Simpson
John Coulter	Harvey D. Leonard	Bruce Sloan
Pink G. Curd	Edward Leslie	Otto Smither
W. Q. Daniel	W. Paul Lyon	E. T. Sparks
Stanley S. Dickson	C. C. May	Ray J. Stengel
Louis B. Dugan	Frank C. McElwain	Henry Stewart
Forest C. Easley	E. Hayes McMakin	W. St. Clair Stuart
D. E. Edwards	Norris McPherson	Otis C. Thomas
Harry W. Ennis	Stanley C. Moebus	Erna E. Tyra
R. R. Ernst	John B. Mollette	J. Wood Vance
Carlos Fallis	Davis Moore	Walter R. Vansant
T. P. Fitzpatrick	J. Lee Moore	S. J. Wagner

Porter Wallace	Henry Ward	Otis White
Harry F. Walters	H. L. Waterfield	James H. Woods

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There voted in the negative—

T. B. McConnell —1

Resolved that the title thereof be as aforesaid.

Mr. Perkins moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended and that the vote by which the clincher motion was applied to the vote by which a bill entitled:

H. B. 96. An Act relating to the registration of voters in voting precincts within a city of the third class, etc.

Was passed on today,

Be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Bosworth offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 96 by striking out the title in its entirety and substituting the following in lieu thereof, viz.:

"An Act amending section 14 of Chapter 111 of the Acts of 1938, compiled as section 1496-14 of Carroll's Kentucky Statute Service, May, 1938, to permit the registration of voters in voting precincts within a city of the third class

which is not the county seat of the county within which it is situated."

Said amendment was then agreed to.

Resolved that the title thereof be as amended.

Mr. Bosworth moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 95. An Act to change the time of holding the terms of circuit court in the thirty-seventh Judicial District.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the time of holding terms of the Circuit Court in the Thirty-Seventh Judicial District shall be and are hereby fixed as follows, to-wit:

Carter County, at Grayson, on the Third Monday of February, and continue for twelve juridical days; second Monday of April, and continue for twelve juridical days; second Monday of June, and continue twelve juridical days; fourth Monday of August, and continue for twelve juridical days; third Monday of October and continue twelve juridical days; fourth Monday of November and continue twelve juridical days.

Elliott County, at Sandy Hook, on the second Monday of March and continue twelve juridical days; third Monday of July and continue for twelve juridical days; first Monday of October and continue for twelve juridical days.

Morgan County, at West Liberty, on the fourth Monday of March and continue twelve juridical days; second Monday of August and continue twelve juridical days; second Monday of November and continue twelve juridical days.

§ 2. In order that no term of court as now fixed by law be interfered with while court is in session and so that it may be known in advance when said Act shall be in effect, it is provided that this Act shall be in effect on and after the first day of May, 1940.

§ 3. All laws and parts of laws in conflict herewith are hereby repealed.

Mr. Ernst offered the following amendments to said bill, viz.:

1. Amend H. B. 95 by striking out line 1 and 2 of Section 1 and inserting in lieu thereof the following: "That section 975-37 of Carroll's Kentucky Statutes, 1936 Edition, be repealed and amended as follows:"

2. Amend H. B. 95 on page 2 by striking out section 3 in its entirety.

Said amendments were each agreed to.

Mr. Ernst moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length having been disposed with and the same

being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken therein in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
Wm. T. Beard	T. H. Hickey	Thomas Rigdon
Alvis S. Bennett	Chester Huffines	W. H. Riley
Rell Bevins	John M. Hunnicutt	Lyman Roll
Douglas T. Bolling	W. H. Hunt	Jack Savage
J. F. Bosworth	R. L. Jackson	Carl Scheben
W. S. Brim	J. B. Jarboe, Jr.	Leon J. Shaikun
C. J. Bronston	Chas. X. Jones	Ray O. Shehan
Gus A. Brooks	John S. Juett	Faust Y. Simpson
Randolph A. Brown	W. A. Lamkin, Jr.	Bruce Sloan
Haynes Carman	Robert E. Lee	Otto Smither
Charles M. Carter	Harvey D. Leonard	E. T. Sparks
S. B. Chrisman	Edward Leslie	J. Claude Stacy
John Coulter	W. Paul Lyon	Ray J. Stengel
John H. Cox	C. C. May	Henry Stewart
Pink G. Curd	T. B. McConnell	W. St. Clair Stuart
W. Q. Daniel	Frank C. McElwain	Otis C. Thomas
Stanley S. Dickson	E. Hayes McMakin	Erna E. Tyra
Louis B. Dugan	Norris McPherson	J. Wood Vance
Forest C. Easley	Stanley C. Moebus	Walter R. Vansant
D. E. Edwards	John B. Mollette	S. J. Wagner
Harry W. Ennis	Davis Moore	Porter Wallace
R. R. Ernst	J. Lee Moore	Harry F. Walters
Carlos Fallis	Joe T. Morgan	H. L. Waterfield
T. P. Fitzpatrick	C. Homer Neikirk	Otis White
Cecil Florence	Carl D. Perkins	James H. Woods
Wayne Freeman	B. W. Porter	
Eugene Gough	H. O. Porter	—82

Resolved that the title thereof be as aforesaid.

Mr. Ernst moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 137. An Act to amend section 1682 of Carroll's Kentucky Statutes, 1936 edition, relating to the sale of land under execution.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1682 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Lands must be sold under execution to the highest bidder at the courthouse door of the county in which it lies.

(2) Only so much land shall be sold as will satisfy the execution under which the sale is made.

(3) The officer making the sale must first advertise the time and place of the sale once a week for three consecutive weeks next preceding the sale in the newspaper of largest general bona fide circulation published in the county, or, if there is no such newspaper, by written or printed notice set up at the courthouse door and three other public places in the vicinity of the land for fifteen days next preceding the sale. The advertisement, whether published or posted, shall describe the land to be sold.

(4) Before a sale of land, the officer shall cause it to be valued under oath by two disinterested, intelligent housekeepers of the county, not related to either party, who may be sworn by him. If they disagree, the officer shall act as umpire. If only a part of a tract is sold, the party so sold shall, after the sale, be revalued in like manner.

(5) The valuation so made shall be in writing, signed by the persons making it, and returned with the execution; and the officer must refer to and explain the proceeding in his return on the execution, which return shall be recorded in full.

Mr. Waterfield offered the following amendment to said bill, viz.:

Amend H. B. 137 on page 2, section 4, line 17 by striking out the word "party" and substituting in lieu therefor the word "part."

Said amendment was agreed to.

Mr. Waterfield moved the Previous Question.

Without objection, the motion for the ordering of the Previous Question was withdrawn.

Thereupon Mr. J. Lee Moore offered the following amendment to said bill, viz.:

Amend H. B. 137 by adding the following thereto as Section 6: "Nothing in this Act shall prohibit the parties interested from waiving said newspaper advertisements."

Said amendment was agreed to.

Mr. Waterfield moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Clyde S. Howard	B. W. Porter
J. Everett Bach	Chester Huffines	Thomas Rigdon
Rell Bevins	John M. Hunnicutt	Lyman Roll
Sterling B. Blake	W. H. Hunt	Jack Savage
Douglas T. Bolling	R. L. Jackson	Carl Scheben
W. S. Brim	Chas. X. Jones	Leon J. Shaikun
Randolph A. Brown	John S. Juett	Ray O. Shehan
John H. Cox	William K. King	Faust Y. Simpson
W. Q. Daniel	W. A. Lamkin, Jr.	Bruce Sloan
Stanley S. Dickson	Harvey D. Leonard	E. T. Sparks
Louis B. Dugan	Edward Leslie	G. C. Springate
Forest C. Easley	Frank C. McElwain	Henry Stewart
D. E. Edwards	Norris McPherson	Otis C. Thomas
T. P. Fitzpatrick	G. Sam Milam	Erna E. Tyra
Cecil Florence	Davis Moore	S. J. Wagner
Wayne Freeman	J. Lee Moore	Henry Ward
Eugene Gough	C. Homer Neikirk	H. L. Waterfield
C. L. Hammons	Carl D. Perkins	Otis White

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Those who voted in the negative were—

H. T. Baker	R. R. Ernst	John B. Mollette
Alvis S. Bennett	Carlos Fallis	Joe T. Morgan
Haynes Carman	T. H. Hickey	Otto Smither
John Coulter	J. B. Jarboe, Jr.	J. Wood Vance
Harry W. Ennis	W. Paul Lyon	Porter Wallace

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Resolved that the title thereof be as aforesaid.

Mr. Waterfield moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a bill of the following title, viz.:

H. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State Government of the Commonwealth of Kentucky for the fiscal years ending June 30, 1941, and June 30, 1942, etc.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker in open session and in the presence of the House affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

Mr. J. Lee Moore moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, FEBRUARY 1, 1940

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend

Harry W. Alexander of the Southern Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
J. Everett Bach
H. T. Baker
Robert E. Barry
Wm. T. Beard
Alvis S. Bennett
Rell Bevins
Sterling B. Blake
Douglas T. Bolling
J. F. Bosworth
W. S. Brim
C. J. Bronston
Gus A. Brooks
Randolph A. Brown
Haynes Carman
Charles M. Carter
James W. Chapman
S. B. Chrisman
John Coulter
John H. Cox
Pink G. Curd
W. Q. Daniel
F. E. Daugherty
Stanley S. Dickson
Louis B. Dugan
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Cecil Florence
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
John M. Hunnicutt
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
Stanley C. Moebus
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
E. T. Sparks
G. C. Springate
J. Claude Stacy
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
T. M. Swope
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
S. J. Wagner
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods

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Mr. J. Lee Moore moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. J. Lee Moore moved that when the House adjourn today, it adjourn to meet again on Monday, February 5, at one-thirty o'clock P. M.

Said motion was agreed to.

Mr. J. Lee Moore offered the following resolution, viz.:

Whereas, today, February 1, 1940, marks One Hundred and Fiftieth Anniversary of the founding of the Supreme Court of the United States, and

Whereas, it is the intention of the Bar Association for Franklin County, Kentucky to commemorate the aforesaid anniversary with appropriate exercises, now, therefore

Be It Resolved that the House of Representatives of the General Assembly of the Commonwealth of Kentucky be tendered for said exercises, and

Be It Further Resolved, that the House of Representatives recess at two o'clock P. M. for the purpose of attending said exercises.

Said resolution was adopted.

The Enrolling Clerk of this House delivered the enrolled and original copies of a bill entitled:

H. B. 1. An Act appropriating funds for the operation of the government of the Commonwealth of Kentucky for the biennial period ending June 30, 1940, and June 30, 1941.

Which was signed by the Speaker on yesterday, duly signed by the President of the Senate.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Freeman moved that the privilege of the floor be extended to Mr. Roy Maddox.

Said motion was agreed to.

Mr. Bolling moved that the privilege of the floor be extended to Messrs. V. J. Steele, E. B. Anderson and Emmett Rogers of Owensboro, Kentucky.

Said motion was agreed to.

Mr. J. Lee Moore moved that the Rules of this House be suspended and that the House proceed to the consideration of the Orders of the Day

Said motion was agreed to.

The House then took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 193. An Act relating to the deposit of securities by domestic life insurance companies for the protection of the policy holders therein; etc.

H. B. 116. An Act to promote the public welfare by providing aid to the needy blind.

H. B. 35. An Act relating to revenue and taxation, amending sections 4281f-1, as amended by Chapter 34 of the Acts of 1938, and 4281f-2 of Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency.

With a Committee amendment thereto by way of Substitute therefor.

H. B. 177. An Act relating to the filing of certificates of election.

H. B. 172. An Act approving, ratifying and enacting into law the Ohio River Valley water sanitation compact for the prevention, abatement and control of pollution of the rivers, streams and waters in the Ohio River drainage basin.

H. B. 118. An Act providing that no person shall kindle or start any fire in a public or private road, or in the woods adjacent thereto, etc.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 141. AN ACT to amend section 2 of Chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4149 of Baldwin's Kentucky Statute Service, April, 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2 of chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4149 of Baldwin's

Kentucky Statute Service, April, 1939, is amended to read as follows:

4149. *Distraint for taxes; sale of property and fees; libility of sheriff.* As soon as any taxpayer becomes delinquent, the sheriff or the collector of the county where the property is liable shall distrain sufficient personal property of such delinquent, if found in the county, to satisfy all taxes, penalties, interest and penalties due. If a sufficient amount of personal property be not found, then he will levy on a sufficient quantity of the delinquent's land for that purpose. But if no land be found belonging to the delinquent, the sheriff shall levy on any real estate owned by the delinquent at the time of assessment for the taxes or a sufficient amount to satisfy the taxes, cost, and penalties due. If the sheriff makes illegal or unreasonable seizure and levy for taxes, he shall be liable in damages to the part aggrieved. A sheriff or tax collector shall sell for cash any property belonging to the delinquent taxpayer so levied upon or as much thereof as will pay the taxes due, penalties, interest and cost and his commission, in the same manner that property is sold under execution, except that the land shall not be valued, and shall be advertised by posting, for 15 days before the sale, a written or printed notice at the courthouse door, and by publication once a week for three consecutive weeks prior to the day of sale in the newspaper of largest general bona fide circulation published in the county; if not, then by printed hand bills posted for 15 days before the sale at the courthouse door and in three or more conspicious places in the taxing district; and he shall, not less than 15 days before the sale, mail to the delinquent a postal card addressed to his place of residence or place of business if such can be ascertained, notifying him of the time and place of sale; and in order to cover the cost of such advertisement and notification, the sheriff or collector shall have one dollar for each person whose property is advertised, to be paid by

the delinquent, but in no event to be paid by the state, county or taxing district.

Mr. Waterfield offered the following amendment to said bill, viz.:

Amend H. B. 141 on page 1, section 1, beginning line 7 after the word "penalties" (appearing first time in line) by striking balance of line, all of line 8, 9, 10, 11 and 12 to the word "due" inclusive and add the following", and interest due; or he shall levy on a sufficient quantity of the delinquent's real property for that purpose."

Said amendment was agreed to.

Mr. Perkins offered the following amendment to said bill, viz.:

Amend H. B. 141 after the word "county" in line 22 on page 2, by adding the following words: "provided said printing press is located within the county."

Said amendment was agreed to.

Mr. Waterfield moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. H. Hickey	J. Lee Moore
Alvis S. Bennett	Chester Huffines	C. Homer Neikirk
Sterling B. Blake	John M. Hunnicutt	Carl D. Perkins
J. F. Bosworth	W. H. Hunt	B. W. Porter
W. S. Brim	R. L. Jackson	Thomas Rigdon
C. J. Bronston	Chas. X. Jones	Lyman Roll
Gus A. Brooks	John S. Juett	Bruce Sloan
Randolph A. Brown	William K. King	E. T. Sparks
Haynes Carman	W. A. Lamkin, Jr.	W. St. Clair Stuart
John Coulter	Harvey D. Leonard	Otis C. Thomas
Pink G. Curd	Edward Leslie	Erna E. Tyra
F. E. Daugherty	C. C. May	J. Wood Vance
Louis B. Dugan	Frank C. McElwain	Walter R. Vansant
Wayne Freeman	E. Hayes McMakin	S. J. Wagner
Eugene Gough	Norris McPherson	Henry Ward
Ralph C. Hamilton	G. Sam Milam	H. L. Waterfield
C. L. Hammons	Davis Moore	Otis White

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Those who voted in the negative were—

H. T. Baker	Clyde S. Howard	W. H. Riley
Wm. T. Beard	J. B. Jarboe, Jr.	Carl Scheben
Douglas T. Bolling	Robert E. Lee	Otto Smither
Charles M. Carter	Paul W. Lyon	G. C. Springate
S. B. Chrisman	T. B. McConnell	J. Claude Stacy
W. Q. Daniel	Stanley C. Moebus	Henry Stewart
Forest C. Easley	John B. Mollette	T. M. Swope
Harry W. Ennis	Joe T. Morgan	Porter Wallace
R. R. Ernst	H. O. Porter	Harry F. Walters
Carlos Fallis	Kleber F. Price	James H. Woods
Cecil Florence	Hobart Rayburn	

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Resolved that the title thereof be as aforesaid.

Mr. Waterfield moved that the vote which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Daugherty moved that the privilege of the floor be extended to Mr. C. P. Bradbury.

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be extended to Mr. Ray Hendrick of Bowling Green, Kentucky.

Said motion was agreed to.

Mr. Lyon moved that the privilege of the floor be extended to Messrs. Tree, Bell and Ogden of Metcalfe county.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 138. AN ACT relating to financial statements of persons, firms and corporations handling public money; amending section 1 of Chapter 27 of the Acts of 1938; compiled as section 3747a-1 of Baldwin's Kentucky Statute Service, April, 1939, and section 3747a-2 of Carroll's Kentucky Statutes, 1936 edition.

With a Committee amendment thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 27 of the Acts of 1938, com-

piled as section 3747a-1 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

(1) Every public official or depository of any county, school district, city, town or subdivision or district less than a county, whose duty it is to collect, receive, or have the custody, control or disbursement of public funds, except in counties containing a city of the first class or a county or city which by law is required to make quarterly publication of its fiscal and financial affairs; shall at the end of each fiscal year prepare an itimized, sworn statement of the public funds so collected, received, kept or disbursed by him during the fiscal year. The statement shall show the amount of public funds collected and received and from what sources, and the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that in the case of regular salaries paid oftener than once a year the total salary of any person for the year may be listed as one item of disbursement. A public official making the statement herein required shall procure and include in or attach to it as a part thereof a certificate from the proper officer of any bank in which funds are or have been deposited during the past fiscal year, showing the balance to the credit of the official making the statement; and a depository making the report shall include or attach the certificate of its own cashier or other proper officer showing the balance due.

(2) The public official or depository making the statement herein required shall within thirty days after the end of the fiscal year have the statement published in the newspaper of largest general bona fide circulation published in the county, and shall file with the county court clerk of the county where he resides or holds office a written or printed copy of the statement, subscribed and sworn to. The publication shall be paid for out of the public funds in the hands of the official or depository making the statement.

§ 2. Section 3747a-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any public official or depository failing to comply with section 3747a-1 shall be fined not less than Two Hundred and Fifty Dollars nor more than Five Hundred Dollars; and if any fiscal court, city legislative body or board of education directs any public official not to comply with section 3747a-1, or ratifies such non-compliance after it has occurred, every member thereof who voted in favor of such direction or ratification shall also be subjected to the fine. The fine shall be paid into the treasury of the county, city or district for which the public official convicted held office, or of the county in which the depository convicted is located.

§ 3. Section 1846 of Carroll's Kentucky Statutes 1936 edition, is repealed.

Said amendment as offered by the Committee is as follows, viz.:

Amend the title to H. B. 138 by changing the Period (.) after the word "edition" in the title to a semicolon (;) and adding the following words:

"repealing section 1846 of Carroll's Kentucky Statutes 1936 edition."

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted for the affirmative were—

C. W. Anderson, Jr.	Wm. T. Beard	Sterling B. Blake
Robert E. Barry	Alvis S. Bennett	Douglas T. Bolling

J. F. Bosworth
W. S. Brim
C. J. Bronston
Gus A. Brooks
Randolph A. Brown
Haynes Carman
James W. Chapman
S. B. Chrisman
John Coulter
Pink G. Curd
W. Q. Daniel
F. E. Daugherty
Louis B. Dugan
Forest C. Easley
D. E. Edwards
Harry W. Ennis
Carlos Fallis
Cecil Florence
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
Stanley C. Moebus
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
E. T. Sparks
G. C. Springate
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
T. M. Swope
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods
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There voted in the negative—

H. T. Baker —1

Resolved that the title thereof be as aforesaid.

Mr. Waterfield moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Waterfield moved that the vote by which the clincher motion was applied to the vote by which said bill was passed, be reconsidered.

Without objection, said motion was agreed to.

Thereafter such reconsideration, Mr. Waterfield moved the adoption of the amendment to the title of said bill as offered by the Committee.

(For title see Journal of today ante)

Said motion was agreed to.

Said amendment to the title was then agreed to.

Resolved that the title thereof be as amended.

Mr. Waterfield then moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 72. An Act to regulate auctioneers, assistants at auction sales and auction marketing commissions, etc.

Mr. J. Lee Moore moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Davis Moore moved that the Rules of this House

be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon Mr. Davis Moore of the Committee on Agriculture No. 1-A to which the same had been referred, reported a bill entitled:

H. B. 238. An Act to repeal, amend and re-enact Sec. 1283a-5, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 69. An Act to regulate and license real estate brokers and salesmen and to create a state real estate board.

Mr. Carter moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 6. An Act repealing chapter 55 of the Kentucky Acts, regular session, 1938.

Mr. Scheben moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 174. An Act to regulate the use of certain types of text books in the public schools of Kentucky and to provide penalties for the violation of this act.

Said bill is as follows, viz.:

WHEREAS: it appears that certain text books have been used in our public schools which are designed and printed and taught in a manner that is damaging, discrediting, destroying respect, and professional standing of certain legalized schools and methods of healing.

Therefore,

Be it enacted by the eneral Assembly of the Commonwealth of Kentucky:

That no person or persons connected with the public school system of Kentucky shall use or cause to be used, read or taught in the public schools of Kentucky any text book or printed matter of any kind whatsoever, which contains any statement or statements which critizes, condemns or contains derogatory statements which could be deemed discrediting, discriminating, or harmful to any legally constituted school or system of healing, science, or profession in the state of Kentucky.

PENALTY: Any one violating the provisions of this statute shall be subject to a fine of from fifty dollars ($50.00) to five hundred dollars ($500.00) or imprisonment in the County jail for, from thirty days to six months or both.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	D. E. Edwards	H. O. Porter
J. Everett Bach	Carlos Fallis	Kleber F. Price
Robert E. Barry	Cecil Florence	Thomas Rigdon
Wm. T. Beard	Wayne Freeman	Jack Savage
Douglas T. Bolling	Van Y. Greene	Carl Scheben
J. F. Bosworth	T. H. Hickey	Leon J. Shaikun
W. S. Brim	Clyde S. Howard	Faust Y. Simpson
C. J. Bronston	Chester Huffines	Bruce Sloan
Gus A. Brooks	R. L. Jackson	Otto Smither
Haynes Carman	J. B. Jarboe, Jr.	G. C. Springate
Charles M. Carter	Chas. X. Jones	Henry Stewart
S. B. Chrisman	William K. King	W. St. Clair Stuart
John Coulter	W. A. Lamkin, Jr.	Erna E. Tyra
Pink G. Curd	Edward Leslie	J. Wood Vance
W. Q. Daniel	Davis Moore	Harry F. Walters
F. E. Daugherty	J. Lee Moore	Henry Ward
Louis B. Dugan	Carl D. Perkins	H. L. Waterfield
Forest C. Easley	B. W. Porter	—53

Those who voted in the negative were—

Alvis S. Bennett	Ralph C. Hamilton	E. Hayes McMakin
Randolph A. Brown	Harvey D. Leonard	Lyman Roll
Eugene Gough	W. Paul Lyon	Porter Wallace
		—9

Resolved that the title thereof be as aforesaid.

Mr. King moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 147. An Act to restrict the sale of rubbing alcohol

to medical purposes only and setting penalties thereto for violation of same.

Said bill is as follows, viz.:

WHEREAS, there is and has been an increased use of rubbing alcohol for purposes other than medicinal, and

WHEREAS, the sale of rubbing alcohol by present retail methods is conductive to the use of the article as a beverage,

Therefore, be it enacted by the General Assembly of the Commonwealth of Kentucky:

Hereafter the sale of rubbing alcohol by other than registered phormacists in state licensed drug stores is prohibited. The pharmacists making such sale must be reasonably sure that the article is to be used for medicinal purposes only, and in the event the pharmacist is in doubt, he may refuse to make the sale. The pharmacist shall cause to be kept a ledger in which the purchaser of the above mentioned article shall sign his name opposite the date and the amount of purchase, said ledger shall be a matter of public record.

Failure to comply with this Act shall be deemed a violation of law and punishable by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense.

Mr. Neikirk offered the following amendments to said bill, viz.:

1. Amend H. B. 147 on page 1, line 2 after the word "in" by striking out the words "State licensed"

2. Amend H. B. 147 by adding the following on page 1, after line 8, viz.: "Rubbing alcohol as referred to in this act, shall mean any product manufactured with specially denatured alcohol and represented to be a rubbing alcohol compound.

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Cecil Florence	Kleber F. Price
J. Everett Bach	Wayne Freeman	Thomas Rigdon
H. T. Baker	Eugene Gough	Lyman Roll
Alvis S. Bennett	Van Y. Greene	Jack Savage
Sterling B. Blake	Ralph C. Hamilton	Carl Scheben
Douglas T. Bolling	T. H. Hickey	Leon J. Shaikun
J. F. Bosworth	Chester Huffines	Bruce Sloan
W. S. Brim	W. H. Hunt	Otto Smither
Gus A. Brooks	R. L. Jackson	E. T. Sparks
Randolph A. Brown	J. B. Jarboe, Jr.	G. C. Springate
S. B. Chrisman	Chas. X. Jones	Ray J. Stengel
John Coulter	William K. King	W. St. Clair Stuart
Pink G. Curd	Robert E. Lee	T. M. Swope
W. Q. Daniel	Harvey D. Leonard	Otis C. Thomas
F. E. Daugherty	Norris McPherson	J. Wood Vance
Stanley S. Dickson	G. Sam Milam	Henry Ward
Louis B. Dugan	Davis Moore	H. L. Waterfield
Forest C. Easley	J. Lee Moore	Otis White
Harry W. Ennis	C. Homer Neikirk	James H. Woods
R. R. Ernst	Carl D. Perkins	
Carlos Fallis	B. W. Porter	—61

Those who voted in the negative were—

Robert E. Barry	D. E. Edwards	W. A. Lamkin, Jr.
Wm. T. Beard	Clyde S. Howard	Edward Leslie
Haynes Carman	John S. Juett	W. Paul Lyon

Frank C. McElwain	Hobart Rayburn	Erna E. Tyra
John B. Mollette	Faust Y. Simpson	Porter Wallace
H. O. Porter	Henry Stewart	Harry F. Walters

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Resolved that the title thereof be as aforesaid.

Mr. Neikirk moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 76. An Act construing certain provisions in deeds and wills; defining powers of grantees, legatees and devisees therein, etc.

Mr. Daugherty moved that said bill be made a Special Order of the Day Tuesday, February 6, at two o'clock P. M.

Said motion was agreed to.

The House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 29. AN ACT to require the payment of a fee to the Attorney General by each person required by law to register with the Attorney General as a lobbyist or legislative agent; providing for the use of said fund in the employment of clerical aid in making such registration; providing for the purchase of supplies necessary to carry out the existing provisions; providing for a report by the Attorney General to the Commissioner of Finance covering the collection of such fees; and providing for the transfer of unused funds to the general fund, and declaring an emergency.

With a Committee amendment thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each person now registered according to Chapter 16 of the Acts of 1916, as a lobbyist or legislative agent in the legislative docket kept by the Attorney General, said registration being for the 1940 Term of the General Assembly, and each person hereafter registering as a lobbyist or legislative agent during the Term of the 1940 General Assembly, or any person hereafter registering as a lobbist or legislative agent at any term of the General Assembly, regular or special, in accordance with Chapter 16 of the Acts of 1916, shall at the time of registering in the legislative docket kept by the Attorney General, pay to the Attorney General the sum of Two Dollars ($2.00) for each registration.

§ 2. This fund collected by the Attorney General is to be expended by him, or so much thereof as is necessary to carry out the purposes of this Act, in employing a clerical assistant, whose duty it shall be, under the direction of the Attorney General, to keep the legislative docket in the manner now provided by law. The Attorney General shall expend such portions of the fees collected by him as he shall deem necessary in the purchase of books and other supplies used in the keeping of said docket.

§ 3. He shall have the authority to expend the fees so collected by him for the employment of a clerk whose salary shall not exceed One Hundred, Twenty-five Dollars ($125.00), and whose employment shall not exceed the period of time for which the General Assembly is in regular and extraordinary sessions; but in no event shall the compensation paid such clerical assistant exceed the amount of the fees collected hereunder by the Attorney General.

§ 4. It shall be the duty of the Attorney General to submit a verified accounting of all fees so received by him,

to the Commissioner of Finance within thirty (30) days after the General Assembly shall have adjourned.

§ 5. Any portion of the fees so collected not expended for the purposes herein enumerated shall be surrendered by the Attorney General to the Treasurer of the Commonwealth of Kentucky, and shall be covered into the General Fund.

§ 6. Whereas, now many persons, corporations, and associations have employed legislative agents, counsel, and lobbyists to promote or oppose the passage of legislation affecting the pecuniary or other interests of said individual, association, or corporation, as distinct from the interests of the people of the whole State; and

Whereas, the General Assembly has imposed upon the Attorney General the duty of keeping the legislative docket; and

Whereas, the keeping of said docket occupies almost the full time of a stenographer in the office of the Attorney General; and

Whereas, the Legislature made no provision for the purchase of supplies necessary to keep the legislative docket and made no provision for the employment of a clerk to perform the duty of keeping the legislative docket; and

Whereas, the interest of the people requires that all persons attempting to influence legislation for their private interest be known publicly, and the present system of keeping the legislative docket is working an unwarranted hardship upon the staff of the Attorney General,

THEREFORE an emergency is declared to exist and this Act shall take effect immediately upon its passage by the General Assembly and approval by the Governor.

Said amendment as offered by the Committee is as follows, viz.:

Amend H. B. 29 by striking out Section 4, in said bill, and insert in lieu thereof the following:

Section 4. It shall be the duty of the Attorney General to immediately deposit all funds so collected with the Treasurer of Kentucky through the Commissioner of Finance of Kentucky to the credit of the general fund, and that all payments from this fund be upon certified vouchers from the Attorney General approved by the Commissioner of Finance.

And by striking out Section 5 in its entirety.

Mr. Hunnicutt offered the following amendment as a Substitute for the amendment as offered by the Committee, viz.:

Amend H. B. 29 on page 2 by striking out sections 4 and 5 in their entirety and inserting in lieu thereof the following:

"Section 4. All funds collected under the provisions of this Act shall be cleared through the Commissioner of Finance and deposited with the Treasurer of the Commonwealth to the credit of the General Expenditure Fund. The necessary expenditures authorized under the provisions of this Act shall be certified by the Attorney General to the Commissioner of Finance, and upon the approval of such certifications by the Commissioner of Finance the Commissioner of Finance shall issue his warrant to the Treasurer of the Commonwealth for payment of same."

Said amendment as offered by Mr. Hunnicutt in lieu of the Amendment as offered by the Committee, was agreed to.

Mr. Hunnicutt offered the following amendment to said bill, viz.:

Amend H. B. 29 on page 2 by striking out the figure "6" before the word "whereas" in the last paragraph on page 2 and inserting in lieu thereof the figure "5."

Said amendment was agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	D. E. Edwards	W. A. Lamkin, Jr.
J. Everett Bach	Harry W. Ennis	Robert E. Lee
H. T. Baker	R. R. Ernst	Edward Leslie
Robert E. Barry	Carlos Fallis	W. Paul Lyon
Wm. T. Beard	T. P. Fitzpatrick	C. C. May
Alvis S. Bennett	Cecil Florence	T. B. McConnell
Rell Bevins	Wayne Freeman	Frank C. McElwain
Sterling B. Blake	Eugene Gough	E. Hayes McMakin
Douglas T. Bolling	Van Y. Greene	Norris McPherson
J. F. Bosworth	Ralph C. Hamilton	Sam G. Milam
W. S. Brim	C. L. Hammons	Stanley C. Moebus
Gus A. Brooks	T. H. Hickey	John B. Mollette
Randolph A. Brown	Clyde S. Howard	Davis Moore
Charles M. Carter	Chester Huffines	J. Lee Moore
Pink G. Curd	John M. Hunnicutt	Joe T. Morgan
W. Q. Daniel	W. H. Hunt	C. Homer Neikirk
F. E. Daugherty	R. L. Jackson	Carl D. Perkins
Stanley S. Dickson	J. B. Jarboe, Jr.	B. W. Porter
Louis B. Dugan	Chas. X. Jones	Kleber F. Price
Forest C. Easley	John S. Juett	Hobart Rayburn

Thomas Rigdon	Otto Smither	Walter R. Vansant
W. H. Riley	E. T. Sparks	Porter Wallace
Lyman Roll	J. Claude Stacy	Harry F. Walters
Jack Savage	Ray J. Stengel	Henry Ward
Carl Scheben	Henry Stewart	H. L. Waterfield
Leon J. Shaikun	W. St. Clair Stuart	Otis White
Ray O. Shehan	Otis C. Thomas	James H. Woods
Faust Y. Simpson	Erna E. Tyra	
Bruce Sloan	J. Wood Vance	—85

Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Daugherty moved that Master Garry Foster Bevins, and Miss Margaret Ann Bevins, grandson and daughter respectively of The Hon. Rell Bevins, be appointed Honorary Pages of this House.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled:

S. B. 18. An Act to amend and re-enact as amended, Section 110 Carroll's Kentucky Statutes, Baldwin's 1936 revised edition, relative to certain officers who are not permitted to practice law.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 110, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, relative to certain officers who

are not permitted to practice law, be amended and re-enacted, so that said section, when amended, and re-enacted, shall read read as follows:

"The Governor or a Judge of the Court of Appeals or Circuit Court shall not practice law or render any service as an attorney or counselor at law in any of the courts of this Commonwealth, except in such cases as he may have been employed in previous to his election, or in cases in which he may be personally interested.

"The Clerk or Deputy Clerk of any court shall not practice law or render any service as an attorney or counselor at law in the court or courts of this Commonwealth of which he is clerk or deputy clerk."

"This shall in no wise be construed to limit the right of the Lieutenant Governor to practice law or render any service as an attorney or counselor at law in any of the courts of this Commonwealth, except at such times as he may be serving as Governor."

S. B. 29. An Act relating to the Auditor and changing the amount of bond required under Section 138 of Carroll's Kentucky Statutes, 1936 Edition, and amending said Section so as to reduce the bond of the Auditor from $200,000.00 to $25,000.00.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 138 of Carroll's Kentucky Statutes, 1936 Edition, be amended as follows:

(1) That the following words be striken from said section: "He shall on or before that day, take the oath of office, and execute bond to the Commonwealth, with sureties, worth at the time, jointly and severally, two hundred thousand dollars," and in lieu thereof insert the following: "He shall

on or before that day, take the oath of office, and execute bond to the Commonwealth, with sureties, worth at the time, jointly and severally, twenty-five thousand dollars," so when said section 138 of Carroll's Kentucky Statutes, 1936 Edition, is so amended it shall read as follows:

"The auditor shall enter upon the duties of his office on the first Monday in January next succeeding his election; he shall on or before that day, take the oath of office, and execute bond to the Commonwealth, with sureties, worth at the time, jointly and severally, twenty-five thousand dollars ($25,000.00), to be approved by the governor and filed in the office of the secretary of state, conditioned for the faithful discharge of the duties of his office. He shall receive an annual salary of thirty-six hundred dollars, payable monthly at the treasury, upon the requisition of the governor, in lieu of all other fees and compensation. He shall have power to appoint one assistant, whose salary shall not exceed the sum of thirty-five hundred dollars per annum."

S. B. 46. AN ACT to repeal, amend and re-enact Chapter 61 of the Acts of the General Assembly of 1938, being Section 1050 of Carroll's 1939 Supplement to Carroll's Kentucky Statutes, 1936 edition, and providing that the county judge shall preside over the Quarterly Court and that said court may be held in each county at monthly terms but that the county judge may, by order, preside for continuous sessions of said court.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 61 of the Acts of the General Assembly of 1939, being Section 1050 of Carroll's 1939 Supplement to Carroll's 1936 Kentucky Statutes, shall be repealed, amended

and re-enacted and when so repealed, amended and re-enacted, shall read as follows:

County judge to preside; terms of court; change. The quarterly court shall be presided over by county judge, and there shall be held in each county at least four terms of the quarterly court each year, at intervals of three months and upon such days as the county judge may fix, by an order entered upon the order book of said court; but the county judge may by an order so entered provide for the holding of monthly terms, or for continuous sessions of his said court, but such order must be made at a regular term of said court and not to take effect until sixty days thereafter. The terms of the court shall remain as now established until changed as herein provided. At each term the court shall remain in session as long as the business requires it.

S. B. 24. AN ACT prohibiting the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk, cream, etc., to which has been added or which has been blended or compounded with fat or oil other than milk fat; and prescribing penalties for violation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That whenever used in this Act the term "person" includes an individual, partnership, corporation or association.

The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not

condensed, evaporated, concentrated, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed; Provided, that this definition shall not be held or construed to mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, provided such compound (1) is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician; (2) is packed in individual containers bearing a label in bold type that the contents are to be used for said purposes; and provided further, that nothing in this definition shall be held or construed to prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oils other than milk or butter fat.

§ 2. That "filled milk" as herein defined, is an adulterated article of food,

§ 3. That it shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of another, to manufacture for sale within this State, or sell or exchange, or have in his possession with intent to sell or exchange, any "filled milk" as defined in this Act.

§ 4. That any person who shall violate any of the provisions of this Act, shall upon conviction, be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), or be imprisoned in the county jail for not less than ten (10) days, nor more than six (6) months, or by both such fine and imprisonment.

§ 5. That if any clause, sentence, paragraph, or part of this Act, shall, for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation, to the clause, sentence, paragraph, or any part thereof, directly involved in the controversy in which the judgment has been rendered.

§ 6. That all laws or parts of laws, contrary to, or inconsistent, with the provisions of this Act, be, and the same are, hereby repealed.

§ 7. It shall be the duty of the State Board of Health to enforce this Act in every county of the Commonwealth of Kentucky.

§ 8. It shall be the duty of the County Attorney in any county of the Commonwealth of Kentucky to prosecute any violation of this Act.

Ordered that said bill be printed and referred.

The House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 86. An Act relating to fish and game and providing a method for raising additional funds for the purchase and propagation thereof through voluntary donations and prescribing the compensation of county clerks, etc.

With an amendment thereto by way of Substitute therefor, as offered by Mr. Sloan.

(For bill see House Journal of January 30)

(For Substitute as offered by Mr. Sloan, see House Journal of January 30)

Mr. Sloan offered the following amendment to the title of said Substitute, viz.:

Amend the title to the Substitute for H. B. 86 by adding at the end thereof, the following:

"This Act shall be known and referred to as 'The Sloan Act' ".

Said amendment was agreed to.

Said Substitute was then adopted, as amended.

Mr. Sloan moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Douglas T. Bolling	John Coulter
J. Everett Bach	J. F. Bosworth	Pink G. Curd
H. T. Baker	W. S. Brim	W. Q. Daniel
Robert E. Barry	C. J. Bronston	F. E. Daugherty
Wm. T. Beard	Gus A. Brooks	Stanley S. Dickson
Rell Bevins	Haynes Carman	Louis B. Dugan
Sterling B. Blake	James W. Chapman	Forest C. Easley

D. E. Edwards
Harry W. Ennis
Carlos Fallis
T. P. Fitzpatrick
Cecil Florence
Wayne Freeman
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
Robert E. Lee
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
Kleber F. Price
Hobart Rayburn
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Bruce Sloan
Otto Smither
J. Claude Stacy
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods
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There voted in the negative —

Alvis S. Bennett —1

Resolved that the title thereof be as amended.

Mr. J. Lee Moore moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 113. An Act in relation to the acquisition and use of property for the national Mississippi River Parkway.

Said bill is as follows, viz.:

(a) WHEREAS, this State desires to avail itself of the

benefits of an Act introduced in the 1939 Congress of the United States establishing and authorizing a survey for a national Mississippi River Parkway from its source to its mouth, a portion of which as a rural trunk parkway, will also serve as a "market to farm" route for tourists, it is anticipated, will be located in this State; and

(b) WHEREAS, interstate north and south travel-trade from the ten States bordering on the Mississippi River, containing approximately thirty million people constituting one-fourth of the population of the nation with over five million passenger automobiles, is continually increasing due to greater industrial leisure and tourist attractions; and

(c) WHEREAS, this State will benefit from the added facility and motor vehicle park road for use of its citizens and tourists to this State and from the gasoline tax and other income from increased "travel-trade" through the State; and

(d) WHEREAS, the demands and needs for a national park and rural trunk parkway through the Mississippi Valley with connections for future branch tributary valley parkways and public areas for recreational purposes as a part of the nation-wide parkway system, justify the authorization of this particular parkway as timely; and

(e) WHEREAS, such authorization by the General Assembly is desirable now in order that this State and political sub-division, associations and citizens thereof, may plan for and procure public areas and historic sites enroute while same may be readily available; and to provide creative employment of everlasting value; and

(f) WHEREAS, Act No. 770½ approved June 23, 1936, and modified to apply to this State, authorized the Secretary of Interior through the National Park Service to make comprehensive study with this State with a view toward developing a coordinated adequate public park, parkway and rec-

reational area plan and program for the people of this State; and

(g) WHEREAS, this State bordering the Mississippi River through its respective park, planning and highway agencies, has cooperated with the National Park Service and the National Resources Committee in developing a natural resource program and plan for a "Mississippi River Parkway" from its source to the mouth; and

(h) WHEREAS, increased leisure necessitates increased recreation and conservation facilities along the great waterway; and

(i) WHEREAS, pending the enactment by the State of adequate enabling legislation, general Federal surveys, plans and estimates for parkway may proceed, but no Federal funds shall be expended for parkway road construction within this State through which a portion of the parkway is to be located; and

(j) WHEREAS, this State as a Federal requirement must furnish the parkway lands to the Federal Government and bear the expense of acquisition therefor, NOW, THEREFORE,

Be it enacted by the General Assembly of the State of Kentucky:

In order to carry out the requirements of the Act of Congress of the United States, in the event that H. R. 3759 is enacted into law, with respect to parkway lands within the State for an interstate Mississippi River Parkway and to obtain the benefits thereof and of Federal funds and aids for its construction, maintenance and administration, the following rights, powers and duties are hereby conferred upon the State Highway Department and the following provisions of law are hereby enacted:

§ 1. *Acquisition of Lands:* That the State Highway Department is hereby designated, authorized and directed

as the State agency of this State to acquire by gift, purchase or condemnation as a public highway and convey to the United States all parkway lands and easements as and when required by aforesaid Act of Congress and by surveys and maps hereafter approved by the Secretary of the Interior.

§ 2. *State Agency Owned Lands:* That State agencies owning or controlling various State-owned areas or State-owned easements or interest therein of State agencies are hereby authorized to cooperate in the conveyance of such lands, easements or interests to and in favor of the United States for this national parkway.

§ 3. *Land Donations to Federal Government:* That if, as a result of such required surveys, maps and estimates, the Secretary of the Interior shall be satisfied that one or more desirable parkway routes are available and the President shall approve thereof, then the State Highway Department of this State be and it hereby is authorized to accept donations of and acquire lands, interests in lands, islands, waters, easements and other property and thereafter convey same to the United States on behalf of this State bordering the Mississippi River, or such of its political subdivisions or private parties may convey necessary or convenient property or easements for such projected parkway, together with sites in connection therewith acquired or to be acquired for recreational or naturalistic purposes. Thereafter, such areas together with the parkway right-of-way of a width sufficient to include the road and all bridges, ditches, cuts and fills appurtenant thereto shall constitute such national parkway in this State.

§ 4. *Definitions:* That when used herein unless the context otherwise requires, the term

(1) "Secretary" shall mean the Secretary of the Interior.

(2) "Parkway" shall mean and include parkway areas of varying widths principally through rural areas with sightly,

landscape, scenic, safety and wayside development grants and easements, with minimum frontage and private access rights, featuring a parkway road designed primarily for passenger car traffic and specifically adapted to leisurely travel as a tourway for outdoor recreation and "market-to-farm" use by tourists, including service and recreational facilities and the preservation of scenic, historical and scientific features.

(3) "Scenic, landscape, sightly or safety easement" shall mean a servitude devised to permit land to remain in private ownership for its normal agricultural, residental or other use consistent with parkway purposes determined by the Secretary, and at the same time placing a control over the future use of the area to maintain its scenic, landscape, sightly and/or safety values for the parkway in this State.

§ 5. *Amount and Width of Right-of-Way:* That an average right-of-way of not less than one hundred acres per mile in fee simple, plus scenic, landscape, sightly or safety easement control up to a total average of fifty acres per mile, shall be provided for the gross length of the parkway in this state for parkway purposes. At no point shall the width of such parkway area through State or private lands be less than two hundred feet, except as the Secretary may determine in particular cases. If the total acreage acquired by this State and its political subdivisions or other parties and transferred to the United States for parkway purposes is less than the above stated minimum per mile, then other public areas adjacent to or near the parkway having scenic, recreational, conservation, floodway or historic value, shall be owned, acquired, or administered satisfactorily ot the Secretary or leased thereto sufficient to bring the total acreage up to the minimum. The area boundaries need not be mechanically determined or measured by a uniform distance from the center line of the parkway. The variation of the width shall be dependent upon the topographical and other natural con-

ditions, requirements of design, easements, and time and cost of acquisition. Owing to proximity in numerous locations of vertical picturesque bluffs close to the Mississippi River at high water stages and the narrow range of location of existing railway facilities, the parkway road may be constructed over or under such precipitous cliffs and caverns and around and across river bends and through back country as will best diversify the rugged, wooded and open pastoral scenery and water vistas, and also tend toward economical cost of land acquisitions and parkway road construction and maintenance. The State may include in its fee simple parkway right-of-way requirement, such nearby areas of the Mississippi River within its boundaries, other than the navigable channel thereof at normal river stage, provided the nearest edge of such supplementary water, island, floway or floodway areas shall be within five hundred feet of the center line of the parkway road and shall not exceed a width of one thousand feet.

§ 6. *State to Obtain Titles and Adjustment of Local Roads:* That this State directly or indirectly from or through its political subdivisions, shall acquire and convey to the United States the necessary areas in fee simple, together with landscape, sightly, safety or scenic easements, and rights-of-way for connections to the approaches of trans-Mississippi River bridges; subject to such flowage, revetment, bank protection, levee or other river control, harbor line and navigation reservations or rights as the Secretary of War may determine are essential for navigation or flood control purposes. The titles and evidences of titles to such areas so acquired, for protection to the United States in case of use or occupancy thereof, shall be satisfactory to the Secretary. Deeds shall be accompanied by land maps, survey notes and closure sheets. This State, through its Highway Department or its respective public subdivisions, is hereby authorized to construct, relocate or abandon any local, public or service road, crossing or parallel to the parkway road on parkway land, when requested by the Secretary.

§ 7. *State Acquisition Procedure:* That parkway areas as acquired by this State and scenic, landscape, sightly or safety easements on additional areas, shall be in accordance with preliminary development and property maps submitted to the State by the Secretary. State agencies and interstate or intra-state utilities having fiscal or other interests in any such properties may join in or execute releases for such parkway areas or easements. Parkway area acquisition shall be undertaken in units of sufficient length to justify placing such units under contract for construction of the parkway road as soon as acquired by the State and accepted by the Secretary.

§ 8. *Use of Existing or Projected Highways:* That when the construction of sections of the parkway road parallel to existing highways will result in unnecessary expense and the Secretary may, in his discretion, use existing or projected sections of streets or highways, bridges, parks or other areas as connecting links between other sections of this parkway, and federal funds may be expended for parkway purposes thereon under the provisions of this Act, no parkway area credits need be allowed the State therefor. In the event it is determined that such connecting links of highways should provide for other than passenger car traffic, a cooperative agreement with respect to such use and the reconstruction, maintenance and control thereof may be entered into by the Secretary with the State Highway Department or local public authorities concerned. Alternate routes through or around urban areas, along scenic country or connecting historic sites, may be provided or required for acceptance by the Secretary for parkway purposes.

§ 9. That this State hereby cedes to the United States and current jurisdiction to so regulate that the United States shall exercise concurrent jurisdiction to regulate use of such parkway areas and traffic on such parkway road, to protect the areas and property thereon belonging to the United States

from damage, depredation or destruction, to operate and administer the areas and property of the United States embraced in said parkway as a national parkway, when consistent with the current uses of other federal departments through whose areas such parkway extends, and to prosecute in the Federal Courts any violation of such parkway regulations.

§ 10. *State and Local Jurisdiction as to This State:* That there is hereby preserved to this State or its political subdivisions thereof in which such parkway areas are located, all other powers and expressly and specifically reserves thereto jurisdiction in all civil and criminal matters; also the power to levy and collect a tax on all motor vehicle fuels and lubricants on said parkway, and a tax on the sale thereof and of other products and services sold on said parkway, or on any part of the property conveyed to the United States pursuant to this Act, except sales to and for exclusive use of the Federal government; also the jurisdiction and power to tax and license or to prohibit the sale of intoxicating liquors on any such area so conveyed, or to be conveyed; also the right to levy and collect a tax on all property, including buildings erected thereon, not belonging to the United States; also the authority to require licenses and impose license taxes upon any business or businesses conducted thereon under lease with the United States. The above powers enumerated as expressly and specifically reserved to this State or political subdivisions thereof, in which such parkway areas are situated, shall not be construed as being in any respect inconsistent with or impairing the powers of the United States. By mutual agreement between federal and state or local authorities, their respective patrolmen may cooperate in the enforcement of parkway regulations and controlling parades or convoys on the parkway road.

§ 11. *State Powers:* That the Highway or other Departments of the State are hereby authorized to

(a) Acquire and convey to the United States parkway areas in accordance with the provisions of this Act.

(b) Allocate necessary funds when appropriations are available therefor, for the acquisition of such parkway areas and for other purposes outlined below as and when needed.

(c) Arrange for or re-arrange fencing, cattle passes or piping water supply to adjoining landowners; change overhead wires; construct underground wire and pipe crossings; reconstruct public and private roads; make surveys, and prepare land maps and conduct condemnation suits; all without cost to the United States.

(d) Exercise the right of eminent domain to appropriate and condemn land or land or waters of sufficient width to conform to the requirements of this Act, and to convey same to the United States for parkway, easements, recreational or conservation purposes (title to the land vesting in the State upon institution of such proceedings); and to acquire fee simple areas, scenic and other easements and areas requested for revetments, quarries, gravel, dredging and borrow pits found necessary for parkway construction.

(e) To have its representatives and of the United States to enter upon private lands for the purpose of making surveys; to hold the United States free and harmless from claims arising from the surveys, development, construction, maintenance and operation of the parkway undertaken by the United States on such property, and to protect parkway areas by state authority after acquisition by the state and acceptance by the Secretary until such time prior or subsequent to construction as the condemnee shall have received full compensation therefor from the State;

(f) Provide for the relocation or abandonment of sections of local, public and private roads, or of railroads by agreement therewith, on parkway land as may be necessitated by the design and construction of the parkway when such relocation or abandonment does not interfere with flood con-

trol projects or rulings of the State Public Service Commission.

(g) Convey all or portions of state-owned areas and state-owned easements to the United States of sufficient amount to conform to the requirements of this Act when the parkway extends through state-owned areas or absorbs state-owned easements.

(h) Assume indebtedness or secure releases therefrom through irrigation, flood control, drainage or other political districts or subdivisions wherever outstanding indebtedness exists therein.

(i) Provide for the concurrent jurisdiction of this State over the parkway areas after title thereto becomes vested in the United States.

(j) Permit as soon as the route of the parkway shall be determined, the immediate payment of premiums on standing timber, pending final purchase in order to discourage timber cutting by owners during the negotiation period or the execution of leases in advance of possession, satisfactory to the Secretary.

(k) Permit the elimination of existing and the denial of new frontage or access rights to the parkway motor-vehicle road and on parkway land to landowners whose land abuts the parkway land by one or more of the following remedies: Purchase of residual tracts, acquisition by excess condemnation, provision of other means of access to public highways, acquisition of private rights-of-way or by adjustment of damages.

(l) Require the elimination of stock grazing on parkway land or the unrestricted use therefor of such land by adjacent landowners.

(m) Undertake preliminary surveys and preparation of topographical plats of the flagged locations of the parkway road, for the purpose of aiding the federal engineers in de-

termining the final location of the parkway road and right-of-way boundaries.

§ 12. *Overall Clause:* If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Act. All other acts and parts of acts in conflict with provisions of this Act are hereby repealed.

Mr. Waterfield offered the following amendments to said bill, viz.:

1. Amend H. B. 113 on page 9, section 11(h), line 42 by striking out the word "indebtedness" and substituting in lieu therefor the word "indebtedness"

2. Amend H. B. 113 on page 9 section 11, subsec. (f) line 34 by striking out the words "Public Service" and add the word "Railroad"

3. Amend H. B. 113 on page 7, section 8, line 1 by striking out the word "and"

4. Amend H. B. 113 on page 3 in the enacting clause by striking out the word "State" and substitute the word "Commonwealth"

Said amendments were each and severally agreed to.

Mr. Waterfield moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being

engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Van Y. Greene	C. Homer Neikirk
J. Everett Bach	Ralph C. Hamilton	Carl D. Perkins
H. T. Baker	C. L. Hammons	B. W. Porter
Wm. T. Beard	T. H. Hickey	Kleber F. Price
Alvis S. Bennett	Clyde S. Howard	Thomas Rigdon
Rell Bevins	Chester Huffines	W. H. Riley
Douglas T. Bolling	W. H. Hunt	Lyman Roll
J. F. Bosworth	R. L. Jackson	Carl Scheben
W. S. Brim	Chas. X. Jones	Ray O. Shehan
C. J. Bronston	John S. Juett	Faust Y. Simpson
Gus A. Brooks	William K. King	Bruce Sloan
Randolph A. Brown	W. A. Lamkin, Jr.	Otto Smither
Charles M. Carter	Robert E. Lee	E. T. Sparks
John Coulter	Harvey D. Leonard	G. C. Springate
Pink G. Curd	Edward Leslie	J. Claude Stacy
W. Q. Daniel	W. Paul Lyon	Ray J. Stengel
F. E. Daugherty	C. C. May	Henry Stewart
Stanley S. Dickson	T. B. McConnell	W. St. Clair Stuart
Louis B. Dugan	Frank C. McElwain	Erna E. Tyra
Forest C. Easley	E. Hayes McMakin	Walter R. Vansant
D. E. Edwards	G. Sam Milam	S. J. Wagner
Harry W. Ennis	Stanley C. Moebus	Porter Wallace
R. R. Ernst	John B. Mollette	Henry Ward
Carlos Fallis	Davis Moore	H. L. Waterfield
Wayne Freeman	J. Lee Moore	Otis White
Eugene Gough	Joe T. Morgan	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Waterfield moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 68. An Act to repeal subsec. 9 of sec. 518 of the Civil Code of Practice of Kentucky.

Mr. Milam moved that said bill be made a Special Order of the Day for Tuesday, February 6 at three o'clock P. M.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 109. AN ACT amending and re-enacting Section 3235dd-33 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being an act relating to appointment of city managers in cities of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 3235dd-33 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, is hereby amended and re-enacted so that as amended and re-enacted it shall read as follows:

The city manager shall be chosen by the board of commissioners solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or state. He shall be employed for an indefinite period. He shall be removable at any time without cause by the vote of four of the five members of the board of commissioners, and shall be removable for cause, including willful neglect of duty, at any time by a majority vote of the members of the board of commissioners, but

such removal shall not be effected by a reduction in the compensation of the city manager. If removed by the vote of less than four of the five members of the board of commissioners at any time after having served for six months the city manager may in writting demand that written charges be filed against him by the board and a public hearing on the same before the board of commissioners prior to the date on which his final removal shall take effect, but during such hearing the board of commissioners may suspend him from office. Such public hearing shall be fixed by the board on a date not to exceed thirty days after such demand therefor. The city manager shall have the right to be represented by counsel and to present evidence at the hearing. He shall have the right of appeal to the courts from the decision of the board, except when removed by the vote of four of the five members of the board of commissioners. During the absence or disability of the city manager the board shall designate some properly qualified person to perform the duties of the office. The city manager shall receive such compensation as may be determined by the board of commissioners.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Douglas T. Bolling	Charles M. Carter
J. Everett Bach	J. F. Bosworth	James W. Chapman
Robert E. Barry	W. S. Brim	John Coulter
Alvis S. Bennett	C. J. Bronston	Pink G. Curd
Rell Bevins	Gus A. Brooks	W. Q. Daniel
Sterling B. Blake	Randolph A. Brown	F. E. Daugherty

Stanley S. Dickson	John S. Juett	Carl Scheben
Louis B. Dugan	William K. King	Faust Y. Simpson
Forest C. Easley	W. A. Lamkin, Jr.	Otto Smither
D. E. Edwards	Robert E. Lee	E. T. Sparks
Harry W. Ennis	Harvey D. Leonard	G. C. Springate
Carlos Fallis	W. Paul Lyon	J. Claude Stacy
T. P. Fitzpatrick	C. C. May	Ray J. Stengel
Cecil Florence	T. B. McConnell	Henry Stewart
Wayne Freeman	Frank C. McElwain	W. St. Clair Stuart
Eugene Gough	E. Hayes McMakin	Otis C. Thomas
Van Y. Greene	Norris McPherson	Erna E. Tyra
Ralph C. Hamilton	G. Sam Milam	J. Wood Vance
C. L. Hammons	Davis Moore	Walter R. Vansant
T. H. Hickey	J. Lee Moore	S. J. Wagner
Clyde S. Howard	C. Homer Neikirk	Harry F. Walters
Chester Huffines	B. W. Porter	Porter Wallace
John M. Hunnicutt	Kleber F. Price	Henry Ward
W. H. Hunt	Thomas Rigdon	Otis White
R. L. Jackson	W. H. Riley	James H. Woods
J. B. Jarboe, Jr.	Lyman Roll	
Chas. X. Jones	Jack Savage	—79

Resolved that the title thereof be as aforesaid.

Mr. Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. J. Lee Moore moved that the Rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Lamkin.

H. B. 287. AN ACT relating to interest and usury and

prohibiting petty loan companies from charging interest at a greater rate than six per cent per annum

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 883i-14 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

883i-14. *Interest rate.* (1) Every licensee hereunder may lend any sum of money not exceeding three hundred dollars in amount and may charge, contract for and receive thereon interest at a rate not exceeding six per cent per annum.

(2) No amount shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. The maximum interest on loans made under this Act shall be computed on the basis of the number of days actually elapsed and for the purpose of such computation a month shall be any period of thirty consecutive days. In addition to the interest a charge not exceeding two dollars and fifty cents for loans under fifty dollars, and a charge not exceeding five dollars for loans of fifty dollars or over may be made for services rendered by the licensee. No other charges shall be made by the licensee except lawful fees actually and necessarily paid out by the licensee to a public official for filing or recording an instrument securing the loan.

(3) No licensee shall permit any borrowers to split up or divide a loan, nor permit any one borrower or any husband and wife together to become indebted to him under more than one contract of loan at the same time, nor permit several successive loans to be made in lieu of one loan.

§ 2. This Act shall not apply to loans made prior to the passage of this Act.

By same.

H. B. 288. AN ACT concerning the taxation of real estate encumbered by mortgages.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. An owner of real estate who is indebted in sum secured by mortgage upon his real estate, may have the amount of the mortgage indebtedness, existing and unpaid on the date as of which estates are valued for taxation, deducted from the assessed valuation of the mortgaged premises, and the amount of the valuation remaining after the deduction is made shall form the basis for taxation of the real estate for the year.

§ 2. (1) A person desiring to avail himself of the provisions of section 1 shall, when he lists his estate for taxation, file with the tax commissioner of the county in which the mortgaged real estate is located a sworn statement showing the amount of the mortgage indebtedness; the name and residence of the mortgagee; the name and residence of the assignee or bona fide owner or holder of the mortgage, if known; the record and page where the mortgage is recorded, if recorded; and a brief description of the mortgaged premises.

(2) If the mortgage is taxable in a county of this state other than the one in which the property lies the tax commissioner with whom the statement is filed shall notify the tax commissioner of the county in which the mortgage is taxable of the mortgage.

By Mr. Waterfield.

H. B. 289. AN ACT relating to libel and to actions for libel; providing for retraction; repealing, amending, and

re-enacting Chapter 104 of the Acts of the Regular Session of the General Assembly of 1910 (Section 2438b-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision) entitled "An Act Regarding Libel and Civil Proceedings Thereunder"; and repealing inconsistent acts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 104 of the Acts of the Regular Session of the General Assembly of 1910 (Section 2438b-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision) is hereby repealed, amended, and re-enacted so that when so amended and re-enacted it shall provide as follows:

In any action for libel a plantiff may recover only such actual damage as he may specially allege and prove, unless he shall prove either malice, in fact, or that he has delivered to the defendant a written request for a retraction or correction of the libelous charge in as public a manner as that in which it was made and that the defendant has failed to do so within a period of seven (7) days from the receipt of such written request. Such retraction request shall set forth wherein the publication complained of is charged to be libelous, and shall state the actual facts. Punitive damages may be recovered only when the plaintiff proves malice in fact and that such retraction or correction has been requested and refused.

§ 2. That all acts or parts of acts in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Hunt.

H. B. 290. An Act to exempt those persons who served in the forces of the United States Army, Navy or Marine Corps during any portion of the period from April 17, 1917, until November 11, 1918, from payment of any hunting or

fishing license now or hereafter imposed by the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That any soldier, sailor, or marine who is a resident of Kentucky and who served in the army, navy, or marine corps of the United States Government between the dates of April 17, 1917, and November 11, 1918, is hereby exempted from the payment of any hunting or fishing license that is now or that may hereafter be imposed by the Commonwealth of Kentucky as a prerequisite to hunting and fishing within the boundaries of this State.

All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

By Mr. Howard.

H. B. 291. An Act to require nonresident operators of motor vehicles in this Commonwealth to pay the state gasoline tax on gasoline used in this state in excess of the amount contained in the standard gasoline tank of the vehicle.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the statutes is created to be numbered section 4281g-2a and to read as follows:

(1) Every nonresident of this state who operates a motor vehicle within this state shall pay an excise tax at the same rate imposed on gasoline received in this Commonwealth on all gasoline used in the operation of a motor vehicle in this state in excess of the amount of gasoline contained in the standard manufacturer's gasoline tank for the vehicle.

(2) The presence in a motor vehicle operated by a non-resident in this state of a gasoline container or tank other than the standard manufacturer's tank for the vehicle shall be prima facie evidence that the amount of gasoline capable of being contained therein was used in this state without paying the state tax thereon. The burden of proof is upon the operator of the vehicle to prove that the amount of gasoline capable of being contained in said tank, or a portion thereof, was not used in this state.

(3) Unless the operator of the vehicle produces a bill of sale from a gasoline dealer or retailer doing business in this state showing on its face the amount of gasoline purchased, date and the place of business of the dealer or retailer it shall be conclusively presumed that the gasoline contained in said tank was not purchased in this state and that the state gasoline tax was not paid.

(4) It shall be the duty of the state highway patrolmen and of all peace officers to enforce the provisions of this Act, and they may detain the motor vehicle until the tax is paid.

(5) The tax imposed by this section may be paid to and shall be collected by the sheriff or his deputies. Any state highway patrolman or peace officer other than a sheriff or his deputies shall upon apprehending any person violating this Act take him before the sheriff or his authorized deputies and cause the tax to be paid to the sheriff or deputies. Upon payment of the tax the person operating the vehicle shall be issued a receipt which shall be evidence that he has complied with this section.

(6) The sheriff shall be liable upon his official revenue bond for all sums collected under this section, and he shall promptly pay into the State Treasury all sums collected under this section. The tax collected under this section shall be credited to the Road Fund for the construction, reconstruction, maintenance and repair of roads and highways.

(7) Any person who operates a motor vehicle in this

state without paying the tax imposed by this section shall be fined not less than fifty dollars nor more than one hundred dollars for each offense.

By Mr. Hunnicutt.

H. B. 292. An Act to provide for civil service and pensions for county employees in counties containing cities of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act, unless the context requires otherwise:

(1) "County" means a county containing a city of the second class.

(2) "Employee" means any person employed in the conduct of county affairs and whose appointment has heretofore been made by the fiscal court or any member thereof, including those holding an administrative or directorial position as head of a department of county government, heretofore or hereafter established, but does not include employees appointed by the county court.

(3) "Commission" means the civil service commission.

§ 2. *Commission; creation; appointment.* (1) Any county containing a city of the second class may, by resolution, create a civil service commission, classify employees of the county and designate the classes of employees to come under the terms of this Act.

(2) The commission shall consist of three persons appointed by the county judge, subject to the approval of the fiscal court. The original members shall be appointed one for a term of one year, one for a term of two years and one for a term of three years. Thereafter the term of the members

shall be for three years and until their successors are appointed and qualify. Vacancies shall be filled by appointment for the unexpired term. The member originally appointed for three years shall be secretary, and on the expiration of his term the commission shall choose one of its members as secretary. The salary of the members may be fixed by the fiscal court.

(3) Not more than two members shall be adherents of the same political party. No person shall be appointed a member who is under thirty years of age or related by blood or marriage to the county judge or to any member of the fiscal court.

(4) If the county judge fails to appoint a commission or fill a vacancy within thirty days after his power accrues, a majority of the other members of the fiscal court shall, at a subsequent regular meeting, make the appointment.

§ 3. *Rules.* The commission shall promulgate and enforce rules, consistent with this Act and the resolutions of the fiscal court, to carry out the provisions of this Act and the resolutions of the fiscal court. All rules so promulgated shall be subject to the approval of the fiscal court.

§ 4. *Number and class of employees; salaries.* The number, classification and salaries of county employees shall be as fixed, from time to time, by resolution of the fiscal court. No employees directed to be appointed by the county court under the provisions of sections 331e-3, 331e-4, 908, 1055, 1061a-1, 1077b-1, 1379-4, 3780, 3783, 3903, 3925, 3931 or 3934 shall be subject to this Act, and appointments to such positions are not governed by this Act. Provided, however, that the county judge of any county to which this Act applies may waive his right to appoint, by a notice entered on the order books of the fiscal court, the members of the county police force, in order to place the employment of the members of the county police under the provisions of this Act.

Where the judge has so waived in writing, his right to

appoint such police officers and appointment shall be subject to the provisions of this Act.

§ 5. *Qualifications of applicants for employment.* No person shall be eligible for classified county employment unless he is:

(1) At least twenty-one years of age and under sixty years of age,

(2) A registered voter in the county,

(3) Known to be a person of sobriety and integrity,

(4) A law-abiding citizen, and

(5) Able to read, write and understand the English language.

§ 6. *Examinations.* (1) The commission shall examine all applicants for classified county employment within the classes designated by the fiscal court as to their physical and mental qualifications for the class of employment applied for. The examinations shall include such subjects as the commission prescribes and as are commensurate with the various positions to be filled. Separate examinations shall be held for each class of position.

(2) Examinations shall be held at such times and places as the commission deems proper. Notice containing the pertinent details shall be given at least ten days in advance of each examination by publication in the official newspaper.

(3) The applicants shall be ranked and graded according to the results of the examinations. Any applicant who served in the Army, Navy or hospital service of the United States in the World War and who was honorably discharged shall be entitled to a five per cent increase in his examination grade.

(4) As soon after each examination as is practicable the commission shall certify to the county judge, and deliver to each member of the fiscal court, a list of the applicants so examined, ranked and graded according to the result of the

examination in the order of the grades, with the highest grade first.

§ 7. *Appointments of employees.* (1) The county judge, subject to the approval of the fiscal court, shall appoint all county employees within the designated classes, from the lists certified to him by the commission. Appointments to the various positions shall be made by the selection of one of the three holding the highest grades in the examination for that position.

(2) If there are urgent reasons for filling a vacancy in a clasisfied position and the commission is unable to certify a list of as many as three persons eligible for appointment after a competitive examination, the county judge may nominate a person to the commission for non-competitive examination, and if the nominee is certified by the commission as qualified after the examination he may be appointed provisionally to fill the vacancy until a regular appointment can be made from an eligible list prepared by the commission after a competitive examination, which list shall be prepared within ninety days thereafter.

(3) In an emergency an appointment may be made by the county judge without regard to the rules of this Act, but not to continue longer than sixty days, and in no case shall successive appointments be made. Temporary appointments made necessary by disability of regular employees shall continue only during the period of disability.

(4) In case of a vacancy in a classified position where peculiar qualifications such as of a managerial, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such case is impracticable and the position can best be filled by a person of high and recognized attainment in such qualities, the commission may dispense with competition.

(5) Where there is important and urgent need for temporary service in a classified position for a period not to ex-

ceed sixty days the county judge may select for the temporary service any person on the list of those eligible for permanent employment in that class. Successive temporary appointments shall not be made to the same position. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the list for permanent employment, and the period of temporary service shall not be counted as part of the probationary service in case of subsequent appointment to a permanent position.

(6) No person shall be certified by the commission from an eligible list more than four times to the same county judge for permanent employment for the same or a similar position, except at the request of the county judge.

§ 8. *Present employees.* Employees who at the time this Act is adopted by any county have been in the employ of the county for one year next previous shall be eligible for appointment to the class of position held by them without examination.

§ 9. *Political sentiment or activities.* (1) No person shall be appointed to classified county employment on account of political partisan service rendered by him or on account of political sentiment or activities, nor shall any employee be removed, discharged, reduced in grade or rank or paid for any political opinion.

(2) No classified employee shall actively participate in any political activity or coerce, persuade or in any way participate in any election, except to vote.

§ 10. *Removal, suspension or reduction.* (1) No classified employee after serving a probationary period of six months shall be removed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law involving moral turpitude or of any rule adopted by the fiscal court or the commission, and then only in the manner hereinafter provided.

(2) Any person may prefer written charges against any

employee by filing them with the clerk of the fiscal court. The charges must be signed by the person making them and must set out with clearness and distinctness each separate charge.

(3) When probable cause appears to him, the county judge shall prefer charges against any employee whom he believes guilty of any conduct justifying his removal in the interest of public order.

(4) Where the county judge has probable cause to believe that any employee has been guilty of conduct justifying punishment he shall immediately suspend the employee from duty or from both pay and duty pending trial, and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the fiscal court.

§ 11. *Hearing.* (1) Upon the filing of charges the clerk of the fiscal court shall without delay notify the members thereof and they shall fix a time and place for hearing the charges. The clerk shall give the accused employee at least three days' notice of the hearing by serving a copy of the charges on him together with a statement of the time and place of hearing. The employee may waive service of the charges and demand trial within three days after they have been filed with the clerk.

(2) Upon the hearing the charges shall be considered traversed and put in issue and the trial shall be confined to the issues presented by the written charges.

(3) The fiscal court may compel the attendance of witnesses by subpoenas issued by the clerk, served as other subpoenas, and shall have the power of a justice of the peace to punish for contempt. The accused employee is entitled to have witnesses subpoenaed on his behalf, upon furnishing their names to the clerk.

§ 12. *Decision; punishment.* (1) The action and decision of the fiscal court on the charges shall be reduced to writing and recorded in a book to be kept for that purpose,

and the written charges shall be preserved and securely attached to the book.

(2) The fiscal court may punish any employee found guilty of a charge under this Act by reprimand, by suspension for a length of time not to exceed six months, by reducing his grade, or by combining any two or more of such punishments, or by removing or dismissing him.

§ 13. *Appeal.* (1) If an employee is punished by suspension of more than thirty days, by reduction in grade or by removal or dismissal, he may appeal to the circuit court of the county. The enforcement of the judgment of the fiscal court shall not be suspended pending the appeal.

(2) Upon the written request of the employee and payment of the cost thereof, the clerk of the fiscal court shall file in the circuit court a certified copy of the charges and the finding or judgment of the fiscal court, whereupon the cause shall be docketed and tried de novo. If the clerk fails to certify and file the transcript within five days after request is made by the employee may file an affidavit in the circuit court setting out as fully as possible the charges made and the judgment, with a statement of the fact that demand had been made for a transcript more than five days prior thereto. Upon the filing of the affidavit the cause shall be docketed and the circuit court may issue mandatory order to compel the filing of the transcript by the clerk and punish him for contempt for failure so to do.

(3) The appeal shall have precedence over other business and be taken up and determined speedily.

(4) If the original punishment fixed by the fiscal court was removal or dismissal of the employee, he may appeal from the circuit court to the Court of Appeals as in other cases.

§ 14. *Pension fund; creation; maintenance.* (1) Any county adopting by resolution the provisions of this Act may provide in the resolution or by a subsequent resolution for

a pension fund for the benefit of employees in the classified service, and for that purpose may create a pension board, designate and fix the powers of the trustees of the board, provide for the creation and maintenance of fund by the levy of a tax not exceeding ..... cents on each one hundred dollars value of taxable property in the county and assess monthly such amount or per cent of the wages of each employee as may be equitably determined on a fair actuarial basis not to exceed a per cent greater than five per cent of the monthly salary of the employee. The fund shall be used for the retirement of employees after a prescribed number of years of service, for the benefit of disabled employees and for the benefit of widows and dependent children in case of death of an employee while acting within the scope of his employment. The resolution may prescribe the terms and conditions of eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for eligible employees not to exceed one-half of the monthly salary or wage of the employee at the time of his retirement.

(2) When a county creates a pension fund under this Act and accepts from its employees a portion of their wages and levies a tax therefor, an inviolable contract shall be created and exist between the county as employer and such employees. The county and the employees shall continue to operate under this Act and the adopting resolution, and a repeal of the adopting resolution shall not affect the employees unless by mutual consent of the county and the employees.

§ 15. *Penalty.* Any person violating the provisions of sub-section (2) of section 9 of this Act shall be fined Two Hundred and Fifty Dollars, or imprisoned six months in the county jail, or both so fined and imprisoned.

By Mr. Dugan.

H. B. 293. An Act to repeal Section 2739j-28 of Kentucky Statutes, Carroll's 1936 Edition, being Chapter 12,

Page 361, Section 28 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1926, approved March 5, 1926.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2739j-28, Kentucky Statutes, Carroll's 1936 Edition be, and the same is hereby repealed.

All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

By Mr. Shaikun.

H. B. 294. An Act empowering the Board of Trustees of a municipal university in a city of the first class to acquire land for the purposes of such university by purchase, gift or condemnation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Board of Trustees of a municipal university in a city of the first class shall have the power to acquire lands and improvements for the purpose of expanding the plant and extending the usefulness of such university by purchase or by gift, and when unable to agree with the owner or owners of such land and improvements necessary for the purposes of such university, may proceed to condemn and acquire such land and improvements, or so much thereof as may be necessary for the purposes of such university. All condemnation proceedings herein provided for shall be conducted in the same manner as provided by law for condemning land for park purposes by the Board of Park Commissioners of cities of the first class.

By Mr. Barry.

H. B. 295. An Act concerning personal representatives and other fiduciaries of estates.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Upon application of the next of kin, creditor, or other person entitled by law to qualify or nominate another for appointment as administrator, administrator with will annexed, executor, guardian, curator, committee, trustee, assignee or receiver of any estate, or upon a showing of the facts if such appointment is necessary and there is no person entitled to make such application, the Court having jurisdiction thereof may at any time confide the administration of such estate to the public administrator and guardian of the county, theretofore appointed and qualified by oath and by the execution of bond as now or hereafter may be required by law.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Milam.

H. B. 296. An Act providing for the regulation of lawful coin or token operated vending machines or devices and all other lawful coin or token operated machines and devices except those exempted in this Act; requiring licenses therefor and fixing the amount of license fees; vesting administration in the Department of Revenue; providing for appointment and compensation of an attorney to assist in administration of this Act; fixing the compensation of employees to be appointed for the administration of the Act; authorizing the issuance, refusal, revocation and suspension of licenses; imposing prohibitions, restrictions and regulations; fixing penal-

ties for violations of this Act; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Definitions.

1. "Coin machine" shall mean and include any coin or token-operated vending machine or device, or other coin or token operated machines or devices which as a result of the deposit of a coin or substitute (token) therefor by and through an automatic or mechanical operation issues or vends value received in the form of merchandise, goods, chattels, products, or any service or imparts any information or data of any kind or nature whatsoever, or provides amusement or entertainment in the form of music or otherwise but it shall not include what are commonly known as cash registers, public pay toilets, or pay telephones.

2. "Department" shall mean the Department of Revenue.

3. "Commissioner" shall mean the Commissioner of Revenue.

§ 2. The administration of this Act is hereby vested in the Department of Revenue to be exercised through, by and with the facilities of the Department available and hereinafter authorized.

§ 3. The Commissioner of Revenue may appoint and employ such assistants and other employees as may be necessary for the enforcement of this Act and shall fix their salaries and compensation as provided in section 4618-90 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, except as hereinafter provided.

§ 4. The Attorney General of this Commonwealth is hereby authorized to appoint an Assistant Attorney General,

in addition to the Assistant Attorneys General already authorized by law, who may act in any authorized legal capacity particularly as may be required in the enforcement of this Act. He shall possess at least the qualifications of the Sixth Assistant Attorney General, shall have the ordinary powers to discharge the duties of an Assistant Attorney General and shall be paid an annual salary to be fixed by the Attorney General as provided by law of not to exceed four thousand dollars ($4,000.00) from the Department of Law appropriation.

§ 5. The Department shall have the following powers:

(a). To adopt such rules and regulations as are necessary for the administration of this Act.

(b). To refuse applications for and revoke or cancel for cause any license issued under this Act.

(c). To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath, and in connection therewith require the production of any books or papers relative to the inquiry, regardless of whether said witnesses are licensees. The Commissioner may delegate the power provided in this subsection to any employee of the Department. The provisions of the Civil Code of Practice shall, where applicable, apply to subpoenas issued pursuant to this subsection, but such subpoenas shall be effective throughout the Commonwealth, and shall be enforceable by petition to a court of competent jurisdiction. The Department is hereby authorized to pay witnesses the per diems and mileage provided in section 1734 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, for witnesses in circuit courts.

(d). To require any of its employees to execute a bond in such penal sum as may be necessary conditioned upon the proper and faithful performance of their duties and the satisfactory accounting of all moneys received and disbursed by such employees. The cost of such bond shall be borne by the Department.

§ 6. It shall be unlawful for any person or lessee of a coin machine to keep, possess, use or exhibit for gain or operate or permit to be operated or allow to be kept, used, possessed, or operated for gain, or for any purpose, except as hereinafter provided, a coin machine unless a license has first been procured and evidence of payment therefor attached thereto as set forth under the provisions of this Act.

It shall be unlawful for any owner or lessee of any premises, building, or appurtenance thereto, boat, ship, airplane, vehicle, structure, automobile, or any other property, or part thereof, to permit the exhibition, possession or use of any said coin machines unless evidence that the license tax imposed in this Act has been paid is affixed thereto. It shall be unlawful to keep, use, possess or operate for gain any coin machine unless a license shall have been granted and the license tax paid therefor.

§ 7. All licenses issued under this Act shall be obtained and the tax paid as required by this Act on or before January first of each year and all licenses granted shall expire on December thirty-first of each year, and shall be renewed for a like period upon payment of the fee and upon compliance with the terms and conditions herein set forth, provided, that any person paying the tax between January first and June thirtieth of each year shall pay a sum equal to the annual license fee and any person paying the tax between July first and December thirty-first shall pay a sum equal to one-half of the annual license fee.

Any person required by the provisions of this Act to pay a license tax, who shall fail to pay said tax at the time required herein, shall pay as a part of the tax imposed herein a sum equal to twenty per cent (20%) of the amount of tax due and delinquent and in addition thereto interest at the rate of one half of one per cent ($\frac{1}{2}$ of 1%) per month.

§ 8. No license shall be issued hereunder until the applicant has paid the tax provided herein upon each and every

machine owned or proposed to be operated by him based upon the following classification.

a. For each coin machine costing one cent (1c) to four cents (4c) to operate the fee shall be five dollars ($5.00) per annum.

b. For each coin machine costing five cents (5c) to nine cents (9c) to operate the fee shall be ten dollars ($10.00) per annum.

c. For each coin machine costing ten cents (10c) to twenty-four cents (24c) to operate the fee shall be fifteen dollars ($15.00) per annum.

d. For each coin machine costing twenty-five cents (25c) or more to operate the fee shall be twenty-five dollars ($25.00) per annum.

If any machine has more than one slot through which a coin may be dropped to operate the machine, the fee shall be based upon the amount of the highest denomination charged plus One dollar ($1.00) for each additional slot, irrespective of the denomination of the coin it is designed to receive.

Payment of the tax herein imposed shall be evidenced by affixing stamps or seals in such manner as the Department may by regulation prescribe and if any person desires stamps or seals for additional coin machines after obtaining his license, he shall make application therefor in such manner as the Department may by regulation prescribe.

It is hereby provided that any coin machine vending any merchandise for the sale of which a state occupational license is required shall be exempt from payment of the taxes provided herein.

§ 9. No license shall be tranferable except under rules and regulations duly adopted by the Department.

§ 10. No owner or lessee thereof shall change the method or operation of any coin machine in any manner after a license shall have been issued therefor until detailed

specifications and plans showing such alterations shall have been submitted to the Department and written approval thereof first having been obtained from the Department.

§ 11. Applications for any licenses provided for in this Act shall be made to the Department of Revenue at its offices in Frankfort, Kentucky; shall be in writing on forms furnished by the Department for that purpose, and verified. The application shall, in addition to any other information which the Department may deem necessary for the effective administration of the tax laws of the Commonwealth, contain the following information:

(a). A full and complete description of the coin machine sought to be licensed including detailed plans and specifications thereof and a statement of the character of the coin, or substitute (token) therefor, used in operating such coin machine.

(b). A description of the Character and type of merchandise or service issued or rendered by such coin machine upon the operation thereof.

(c). The residence and the principal business address within and without Kentucky of the owner or lessee of each and every coin machine sought to be licensed.

(d). The number of machines owned or proposed to be operated by the applicant, according to the classification referred to in Section 8 of this Act.

(e). A certified or cashier's check for the amount of the tax due.

At the time of making and filing such application, the applicant shall present for inspection, should the Department so require, a sample of such coin machine, a sample of the merchandise proposed to be vended, or a sample or description of the service to be rendered. A person receiving a license hereunder shall at any time upon request of the Department furnish a complete list of the number and type of all coin

machines owned, possessed, leased, or operated by him together with the locations thereof.

§ 12. Licenses for the operation and use of coin vending machines shall be issued and delivered only to a person possessing a good moral character who has never been convicted of a felony and not pardoned and whose license has never been finally revoked.

The decision and findings of the Department of Revenue upon any and all matters of discretion and upon all questions of issuance and revocation of licenses shall be final and conclusive except an appeal may be taken within fifteen days from the action of the Department in refusing to grant a license or in revoking a license or in an order of confiscation of property in accordance with sections 5 and 5a, Chapter 4, Acts of the First Extraordinary Session of the 1938 Kentucky General Assembly.

§ 13. The Department of Revenue and its agents shall have full and complete authority without any order of any court to seize and confiscate any coin or token operated machine or device possessed, leased, used, exhibited, or operated which does not bear evidence of payment of the license tax imposed by this Act or for which no license has been obtained or for which the license has been revoked as provided in this Act. When any coin machine is confiscated or seized by the Department of Revenue or its agents or any other law enforcement officer of this Commonwealth, title to the same shall vest immediately in the Department of Revenue, subject to appeal as hereinabove provided. If the coin machine which is seized or confiscated be a machine which can be licensed under this Act, it shall be sold under rules and regulations to be adopted by the Department of Revenue and the receipts from such sale shall be deposited as other receipts from this Act are deposited. If the coin machine be a gambling devise or machine which cannot be legally licensed

under this Act, the same shall be destroyed by the Department after the expiration of the time for appeal.

§ 14. Nothing in this Act shall apply to lawful coin machines when such machines are kept in the regular place of business of the manufacturer or wholesaler for sale only. Nothing herein shall be construed to authorize or legalize such manufacturer, wholesaler, or any other person to operate for gain such lawful coin machines without a license, or to have in their possession or offer for sale gambling devices.

§ 15. Whoever violates any of the provisions of this Act shall, upon conviction thereof, be fined not less than Tweney-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00), and upon final conviction all licenses held by the licensee so convicted shall be automatically revoked.

Whoever attaches or causes to be attached to a coin machine any fictitious evidence of tax payment purported to be issued by the Department of Revenue, or a counterfeit thereof shall, upon conviction thereof be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) and each separate fictitious counterfeit seal so attached or used on a coin or token operated device shall constitute a separate and distinct offence.

§ 16. All moneys and revenues received under the provisions of this Act shall be covered into the State Treasury, as provided by law and credited to the General Fund; provided, however, that until June 30, 1942, there is hereby appropriated to the Department of Revenue such money as the Department of Finance may allot for the administration of this Act and the sum of not to exceed four thousand dollars ($4,000.00) annually to the Department of Law in addition to any and all appropriations already made to such Departments.

§ 17. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the

remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 18. All laws and parts of laws in conflict herewith are hereby repealed.

§ 19. It appearing that numerous owners of machines and devices as described herein are already operating the same throughout the Commonwealth without making payment for said privilege and the failure of the Commonwealth to charge for said privilege, or to provide for the regulation of the Act and operation of said machines and devices has resulted in confusion and loss of revenues; and that numerous owners desire to install such machines and devices in Kentucky upon the adoption of proper regulations governing same by the General Assembly, and all of which would materially add to the general revenues of the Commonwealth, which is sorely needed, and would result in better regulation of the use and operation of such machines and devices, and the public peace and public welfare would be thereby better conserved, an emergency is hereby declared to exist and this law shall become effective upon its passage.

By Mr. B. W. Porter.

H. B. 297. AN ACT providing that no person shall willfully or maliciously set fire to any woods or fields belonging to another and provding a punishment for the violation of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That no person shall willfully, intentionally, or maliciously set or start or cause to be set or started any fire in any woods or fields belonging to another with the intention of burning said woods or fields.

Any person found guilty of a violation of this Act shall be fined not less than $500.00 nor more than $1,000.00, or shall be imprisoned in the penitentiary not less than one year nor more than two years, or shall be both fined and imprisoned within the discretion of the court or jury trying the case.

Ordered that said bills be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced, as follows, viz.:

H. Res. 38. To Committee on Claims

H. Res. 39. To Committee on Claims

H. Res. 40. To Committee on Claims

H. Res. 41. To Committee on Claims

H. Res. 42. To Committee on Claims

H. B. 249. To Committee on Motor Transportation

H. B. 250. To Committee on Constitutional Amendments

H. B. 251. To Committee on Social Security

H. B. 252. To Committee on Revenue & Taxation No. 1

H. B. 253. To Committee on Kentucky Statutes No. 1-A

H. B. 254. To Committee on Revenue & Taxation No. 1

H. B. 255. To Committee on Public Utilities

H. B. 256. To Committee on Kentucky Statutes No. 1-A

H. B. 257. To Committee on Motor Transportation

H. B. 258. To Committee on Cities of First Class

H. B. 259. To Committee on Kentucky Statutes No. 1-A

H. B. 260. To Committee on Agriculture No. 1-A

H. B. 261. To Committee on Kentucky Statutes No. 1

H. B. 262. To Committee on Kentucky Statutes No. 1

H. B. 263. To Committee on Agriculture No. 1

H. B. 264. To Committee on Publicity & Tourist Attractions

H. B. 265. To Committee on Publicity & Tourist Attractions

H. B. 266. To Committee on County and City Courts

H. B. 267. To Committee on Cities of Second Class

H. B. 268. To Committee on Judiciary

H. B. 270. To Committee on Kentucky Statutes No. 1

H. B. 271. To Committee on Judiciary

H. B. 272. To Committee on Cities of Second Class.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 154. An Act to provide for the payment of costs in advance in quarterly courts in counties containing a city of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. At the time a civil action commencing with original process is filed in a quarterly court in a county containing a city of the second class, the clerk shall collect two dollars, if the initial court costs, including fees for serving process, do not exceed two dollars; or, if the initial costs and fees exceed two dollars, the clerk shall collect a sum equal to the initial costs and fees. Thereafter during the action, each time a party procures process or notice to be served, the clerk shall collect from him a sum equal to the fee for serving the process or notice. Sums collected by virtue of this Act shall be credited on the costs in the action in which collected and are in addition to the taxes imposed by subsection (g) of section 4238.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Gus A. Brooks	D. E. Edwards
J. Everett Bach	Randolph A. Brown	Harry W. Ennis
Robert E. Barry	Haynes Carman	R. R. Ernst
Alvis S. Bennett	James W. Chapman	Carlos Fallis
Rell Bevins	John Coulter	T. P. Fitzpatrick
Sterling B. Blake	Pink G. Curd	Cecil Florence
Douglas T. Bolling	F. E. Daugherty	Eugene Gough
W. S. Brim	Louis B. Dugan	Van Y. Greene
C. J. Bronston	Forest C. Easley	Ralph C. Hamilton

C. L. Hammons	Norris McPherson	Faust Y. Simpson
T. H. Hickey	G. Sam Milam	Bruce Sloan
Clyde S. Howard	Stanley C. Moebus	J. Claude Stacy
Chester Huffines	John B. Mollette	Ray J. Stengel
John M. Hunnicutt	Davis Moore	Henry Stewart
W. H. Hunt	J. Lee Moore	W. St. Clair Stuart
R. L. Jackson	C. Homer Neikirk	T. M. Swope
J. B. Jarboe, Jr.	B. W. Porter	Otis C. Thomas
Chas. X. Jones	H. O. Porter	Erna E. Tyra
John S. Juett	Kleber F. Price	J. Wood Vance
William K. King	Hobart Rayburn	Walter R. Vansant
W. A. Lamkin, Jr.	Thomas Rigdon	S. J. Wagner
Robert E. Lee	W. H. Riley	Porter Wallace
Harvey D. Leonard	Lyman Roll	Harry F. Walters
C. C. May	Jack Savage	Henry Ward
T. B. McConnell	Carl Scheben	Otis White
Frank C. McElwain	Leon J. Shaikun	James H. Woods
E. Hayes McMakin	Ray O. Shehan	—80

Resolved that the title thereof be as aforesaid.

Mr. J. Lee Moore moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. J. Lee Moore moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

MONDAY, FEBRUARY 5, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Eugene Gough	Kleber F. Price
J. Everett Bach	Van Y. Greene	Thomas Rigdon
H. T. Baker	Ralph C. Hamilton	W. H. Riley
Robert E. Barry	C. L. Hammons	Joe E. Robinson
Wm. T. Beard	T. H. Hickey	Jack Savage
Alvis S. Bennett	Clyde S. Howard	Carl Scheben
Sterling B. Blake	Chester Huffines	Leon J. Shaikun
Douglas T. Bolling	John M. Hunnicutt	Ray O. Shehan
J. F. Bosworth	R. L. Jackson	Faust Y. Simpson
W. S. Brim	J. B. Jarboe, Jr.	Bruce Sloan
C. J. Bronston	John S. Juett	Otto Smither
Gus A. Brooks	William K. King	E. T. Sparks
Randolph A. Brown	W. A. Lamkin, Jr.	G. C. Springate
Haynes Carman	Robert E. Lee	J. Claude Stacy
Charles M. Carter	Harvey D. Leonard	Ray J. Stengel
James W. Chapman	Edward Leslie	W. St. Clair Stuart
S. B. Chrisman	W. Paul Lyon	T. M. Swope
John Coulter	C. C. May	Otis C. Thomas
F. E. Daugherty	Frank C. McElwain	Erna E. Tyra
Stanley S. Dickson	E. Hayes McMakin	J. Wood Vance
Louis B. Dugan	Norris McPherson	Walter R. Vansant
Forest C. Easley	J. Lee Moore	S. J. Wagner
D. E. Edwards	Joe T. Morgan	Porter Wallace
Harry W. Ennis	C. Homer Neikirk	Harry F. Walters
Carlos Fallis	Carl D. Perkins	Henry Ward
T. P. Fitzpatrick	B. W. Porter	Otis White
Cecil Florence	H. O. Porter	

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Mr. Bach moved that the reading of the Journal of Thursday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Simpson moved that a leave of absence be granted to Mr. Roll.

Said motion was agreed to.

Mr. Coulter moved that a leave of absence be granted to Mr. Woods.

Said motion was agreed to.

Mr. Wagner moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Shaikun moved that the privilege of the floor be extended to The Honorable Roger Wells of Park City, Kentucky.

Said motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended and that the House proceed with the Regular Order of Business.

Said motion was agreed to.

Mr. Hunnicutt moved that the Speaker appoint a committee of three members to confer with the County Judge of Franklin County and offer their services in conducting an investigation of the kidnapping and threats made against Mr. John B. Mollette.

Said motion was agreed to.

Thereupon the Speaker named Messrs. Hunnicutt, Joe E. Robinson and Hammons as members constituting said Committee.

The following bills and resolutions were then introduced, viz.:

By Mr. Gough.

H. B. 298. AN ACT to repeal and re-enact §4050 Baldwin's 1936 Edition of the Kentucky Statutes, being Chapter 22, Page 88, Article 2, Section 8 of 1906 Acts of the General Assembly of the Commonwealth of Kentucky, entitled "Personalty to be separately valued," the said section as re-enacted to be entitled "Personalty to Be Separately Valued and Providing Method of Ascertaining Value of Stocks of Merchandise."

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That §4050 of the 1936 Edition of Baldwin's Kentucky Statutes, same being Chapter 22, Page 88, Article 2, Section 8 of the 1906 Acts of the General Assembly, be and the same is hereby repealed and re-enacted to read as follows:

Personal property of every kind shall be separately stated and valued in the appropriate column of the tax books herein provided, and if there be no appropriate column, it shall be valued and stated in the column headed "Miscellany".

That for the purpose of arriving at the fair valuation of stocks of merchandise, there shall be furnished to the assessor of all taxing units, including municipal corporations, an inventory of all goods and merchandise in the store or stores or places of business, by the owner thereof, showing cost price of said merchandise, as of the assessment date fixed by law for said taxing unit. Provided, that if any merchant makes his inventory at a date prior to said assessment date, he shall furnish same to the assessor, showing additions to the stock, and withdrawals therefrom since the date of said inventory. The assessment shall be based upon such percentage

of said inventory as agreed upon by the taxing unit to be a fair and equitable assessment of said stocks of merchandise.

By Mr. Gough.

H. B. 299. AN ACT to repeal and reenact Section 4092 and 4092E of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to the taxation of banks and trust companies.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4092 and 4092E of Carroll's Kentucky Statutes, 1936 Revision, relating to the taxation of shares of national banks, state banks and trust companies, be and the same is hereby repealed and reenacted so that said section of Statute when so repealed and reenacted shall read as follows:

Section 1. Shares of Stock, Real Estate, and Tangible Personal Property Made Subject to Taxation. The shares of stock, the real estate, and the tangible personal property of all banks, banking companies, trust companies, firms, associations, or corporations engaged in or doing a banking business in this State, chartered by the laws of this State or the United States, be and they are hereby declared subject to taxation for all purposes in the State of Kentucky; Provided

Section 2. Assessments of Shares—Duty of Bank Officers. No assessment shall hereafter be made against the capital stock, surplus, or undivided profits of any bank, banking company, trust company, firm, association, or corporation engaged in the banking business, chartered under the laws of the State of Kentucky or of the United States, doing business in this State, whose capital stock is represented by shares, but the shares shall be assessed at actual value

or the same percentage of actual value as that fixed on other property for State and local assessment purposes, to the share-holders at the domicile or location of the bank, banking company, trust company, firm, association, or corporation who appear as such upon the books, regardless of the domicile of the share-holders and regardless of any transfers not registered or entered upon its books. It shall be the duty of the President, Vice-President, Cashier, or principal officer of any such bank, banking company, trust company, firm, association, or corporation engaged in the banking business to furnish to the assessor on or before the first day of September, 1938, and on or before the first day of September of each year thereafter a complete list, sworn to, of those who are carried on its books as share-holders. All taxes so assessed against the shares of stock shall be paid by the bank, banking company, trust company, firm, association, or corporation engaged in the banking business direct, and it shall be entitled to collect the amount thus paid from the share-holders or their transferees.

Section 3. Basis for Valuing Stock. The basis for arriving at the value of the shares of stock in any bank, banking company, trust company, firm, association, or corporation engaged in the banking business shall be the actual value of said stock as shown by the statements of said bank, banking company, trust company, firm, association, or corporation, made to the Comptroller of the Currency and required to be published, in the cases of banks, banking companies, trust companies, firms, associations, or corporations created under the laws of the United States, and the statement made to the State Banking Commissioner and required to be published in the case of banks, banking companies, trust companies, firms, associations, or corporations created under the laws of the State of Kentucky, less the value, as shown on said statements, of the real estate and tangible personal property owned by said banks, banking companies, trust companies, firms, associations or corporations, and less the value, as

included in said statements, of the capital stock and obligations of any corporations, all the capital stock of which (except directors' qualifying shares, if any) is owned by said bank, banking company, trust company, firm, association, or corporation, and all, or substantially all, the assets of which consist of real estate acquired for debt and/or the building or buildings in which are located the main and/or branch banking house or houses of said bank, banking company, trust company, firm, association, or corporation and/or the land on which the same is situated. All banks, banking companies, trust companies, firms, associations, or corporations engaged in the banking business, State or National, are hereby required to make and furnish on or before the first day of July of each and every year to the local assessor and to the Kentucky State Tax Commission, a duly authenticated statement similar to those made by them, as above set out, to the Comptroller of the Currency or to the State Banking Commissioner, showing their conditions at the close of business on the 31st day of December of the previous year.

Manner of Assessing Stock, Real Estate, and Tangible Personal Property.—The banking house and all real estate and tangible personal property owned by any bank, banking company, trust company, firm, association, or corporation shall be assessed directly to it at actual value or whatever percentage thereof is determined upon by the Kentucky State Tax Commission for State assessment purposes and the local taxing authorities for local taxing purposes, without regard to the value of said property as shown on the statements of such banks, banking companies, trust companies, firms, associations, or corporations, but which shall be equal and uniform with all other property of the same class.

Real Estate and Tangible Personal Property Assessed in Districts Where Located.—The real estate and tangible personal property of any bank, banking company, trust company, firm, association, or corporation, shall be assessed in the local

tax district where it is located, and the taxes paid in said district.

Collection and Enforcement of Payment of Tax.—The taxes on the shares of stock and real estate owned by any bank, banking company, trust company, firm, association, or corporation doing banking business shall be subject in the same manner as the taxes on other property of a like nature are collected.

Bank Officials Refusing to Comply with This Act—Penalty.—Any President, Vice-President, Cashier, or the principal officer of any bank, banking company, trust company, firm, association or corporation doing banking business who shall fail or refuse to comply with any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not less than $100.00 nor more than $500.00, or imprisoned for a period of not less than thirty days nor more than one year.

By Mr. Beard.

H. B. 300. An Act relating to game and fish.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 28 of Chapter 107 of the Acts of 1938, compiled as section 1954d-28 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

(1) The Director may issue to any qualified person a permit to take wild animals, birds or fish at any time within this state and to transport them for scientific or educational purposes. A fee of one dollar shall be charged to cover administration costs. The permit shall be valid for one year; said period to be shown thereon.

(2) The Director shall issue, without charge, to the managing officer of any charitable or correctional institution

maintained in whole or in part with county funds, a permit authorizing the possession or propagation of wild animals, birds or fish upon the grounds of the institution for the pleasure and divertisement of the inmates of the institution. The permit shall be valid for four years and shall be renewed on application of the managing officer.

By Mr. Lamkin, Jr.

H. B. 301. AN ACT relating to public roads, amending sections 1 and 2 of Chapter 24 of the Acts of 1938, compiled as sections 4356t-17-2a and 4356t-17-2b of Baldwin's Kentucky Statute Service, May, 1938, and repealing section 4 of Chapter 24 of the Acts of 1938, compiled as section 4356t-17-2d of Baldwin's Kentucky Statute Service, May, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 24 of the Acts of 1938, compiled as section 4356t-17-2a of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

All roads and highways heretofore established as a part of the primary system of public highways, and all other public roads, now or hereafter established, including public roads partly or wholly constructed by the use of Federal funds, shall be a part of the State Primary Road System, and may be constructed, reconstructed, improved and maintained by the Department of Highways.

§ 2. Section 2 of Chapter 24 of the Acts of 1938, compiled as section 4356t-17-2b of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

(1) The Department of Highways may determine what public highways shall be constructed, reconstructed, improved and maintained by the Department; but the Department shall

not spend any of its appropriation for the construction, reconstruction or improvement of public highways unless all public highways constructed partly or wholly by Federal funds are in a reasonable state of repair, or contracts have been awarded and the necessary fund set aside for repair work which will put such roads in a reasonable state of repair.

(2) The Department of Highways may determine the type of construction, reconstruction, improvement or maintenance which shall be made of any road or highway or part thereof which the Department proposes to construct, reconstruct, improve or maintain.

(3) Before advertising for bids for the construction or reconstruction of any highway, the Department of Highways may determine the types of improvement desired, and may advertise and receive bids for only the particular type of construction determined upon by it.

§ 3. Section 4 of Chapter 24 of the Acts of 1938, compiled as section 4356t-17-2d of Baldwin's Kentucky Statute Service, May, 1938, is repealed.

By Walter R. Vansant.

H. B. 302. An Act relating to the department of highways and making it an independent agency of the State Government.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4618-70 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4618-70. *Departments specified.* Except as otherwise provided by law, the functions of the State shall be divided, in the manner hereinafter provided, among the Governor and

the administrative departments and independent agencies heretofore and hereby created and established, as follows:

I. Constitutional Administrative Departments:
1. The Governor.
2. Department of State.
3. Department of Law.
4. Department of the Treasury.
5. Department of Agriculture, Labor and Statistics.
6. Department of Education.
7. Department of Military Affairs.

II. Statutory Administrative Departments:
1. Department of Finance.
2. Department of Revenue.
3. Department of Welfare.
4. Department of Health.
5. Department of Industrial Relations.
6. Department of Business Regulation.
7. Department of Conservation.
8. Department of Library and Archives.
9. Department of Mines and Minerals.

III. Independent Agencies:
1. Department of Highways.
2. Auditor of Public Accounts.
3. Legislative Council.
4. Board of Election Commissioners.
5. Railroad Commission.
6. State Racing Commission.
7. Public Service Commission.

§ 2. A new section of the statutes is created to be numbered and read as follows:

4618-98a. *Commissioner and associates; election; terms.* At the November election in 1943 and every four years thereafter there shall be elected from the State at large a Commissioner of the Department of Highways and from each

Congressional District one Associate Commissioner. The terms of the Commissioner and the Associate Commissioners shall begin on the next January 1 after their election and shall continue for four years and until their successors are elected and qualified. The Commissioner and Associate Commissioners of the Department of Highways shall be ineligible for re-election.

§ 3. Section 4618-99 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4618-99. *Organization; Engineer.* (1) The Commissioner of Highways shall have sole charge of the administration of the Department of Highways and shall receive an annual salary of five thousand dollars ($5,000).

(2) The Commissioner of Highways shall appoint as State Highway Engineer, a civil engineer having had at least four years executive engineering experience after receiving his C. E. degree from an accrdited university or college. The State Highway Engineer shall be paid an annual salary of Five Thousand Dollars ($5,000). He shall be the technical advisor to the Commissioner of Highways, and under the direction of said Commissioner, he shall supervise all construction and maintenance work of the Department and perform such other duties as are assigned to him by the Commissioner.

(3) The Department shall be divided for administrative convenience into a division of construction, a division of records, a division of equipment, a division of maintenance, and a division of highway patrol, which division shall be responsible for the enforcement of the highway laws of the Commonwealth. Each division shall perform such duties as may be assigned it by the Commissioner of Highways and shall be headed by a director who shall be appointed by, and act under the direction and supervision of, the Commissioner of Highways.

(4) The Commissioner of Highways may establish such

subordinate positions in the Department of Highways as may be necessary, and make appointments thereto and removals therefrom.

§ 4. Section 4618-100 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4618-100. *State highway Commission.* A State Highway Commission composed of the Associate Commissioners of the Department of Highways is created which shall serve in an advisory capacity to the Commissioner of Highways. The Commissioner of Highways shall serve as ex officio chairman of the State Highway Commission. Each Associate Commissioner shall be paid an annual salary of three thousand dollars ($3,000) and in addition shall be allowed his actual and necessary traveling expenses, including necessary traveling expenses incurred in going over his district and for the attendance at regular and call meetings of the whole Commission. The State Highway Commission shall hold at least quarterly meetings at the seat of government and such other meetings at the seat of government or at a place designated by the Commissioner of Highways as are called by the Commissioner of Highways.

The Associate Commissioners shall contact the fiscal courts, and have hearings in the counties of their respective districts, ascertain the condition of the State Highways and the highway needs in their respective districts, and acquaint the Commissioner of Highways from time to time as to such conditions and needs. They shall also advise the Commissioner of Highways relative to the personnel needs and the personnel efficiency of the State Highway forces in their respective districts, and advise him as to the most practical and feasible plans for the maintenance of county highways in the counties in their respective districts, when such counties indicate their desire for the State Highway Department to aid in the maintenance of such county roads. The Associate Commissioners, individually and when acting as a

group, shall have no administrative authority or responsibility in the operation of the Department of Highways.

§ 5. Section 4618-152 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4618-152. *Heads of departments.* The heads of departments provided herein shall have direction and control of their respective departments and, subject to the provisions of this Act, shall through such departments exercise such powers and perform such duties as are vested by this Act in the several departments under their direction and control and in any agencies thereof. Except as otherwise expressly provided by law or in this Act, the heads of department shall be appointed by the Governor for terms not to exceed four years on the basis of their merit and fitness to perform the duties and exercise the responsibilities of their respective offices. Heads of constitutional administrative departments and of independent agencies, enumerated in Article II, shall be paid the salaries now provided by law, except as otherwise provided in this Act. Heads of statutory administrative departments, except as otherwise provided in this Act, shall be paid annual salaries of Five Thousand Dollars ($5,000) each.

The head of the Department of Finance and the head of the Department of Revenue shall each give bond, of not less than Fifty Thousand ($50,000), for the faithful performance of their respective duties, and the heads of other statutory administrative departments may be required to give bond, for the faithful performance of their respective duties, in such amounts as determined by the Governor. Such bonds shall be executed by some surety company or companies authorized to do business in the Commonwealth, and the bonds shall be approved by the Governor and paid for by the State. The bonds, when executed and approved by the Governor, shall be filed with the Secretary of State.

§ 6. Sections 1, 3 and 4 of this Act shall not take effect until January 1, 1944.

By Mr. White.

H. B. 303. An Act relating to county revenue and finance and providing for the appropriation of surplus taxes, collected under a levy for a specific purpose, to be used for general purposes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Where a county tax has been levied for a specific purpose and more than enough money has been collected under the levy to accomplish the purpose for which the tax was levied, the fiscal court may set aside out of the money collected under the levy a sufficient fund to pay off all unpaid expenditures that will arise in accomplishing the purpose of the levy and appropriate the remaining money collected under the levy for general purposes.

§ 2. Due to the fact that several counties have collected more than enough money, under levies to pay bonds, to pay off bonds that are not yet due and it is inexpedient to require these counties to hold the surplus money until the bonds are due, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

By Mr. White.

H. B. 304. An ACT to amend section 1934 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 1934 of Carroll's Kentucky Statutes, 1936

edition, be amended and when so amended will read as follows:

In all cases, when the governor of this Commonwealth makes requisition upon the governor of any state for a fugitive from justice, the person named in the requisition as the agent of this Commonwealth shall, unless a different condition is contained in his commission, be allowed as compensation from the State Treasury for his services six cents per mile for the distance he travels to and from the jail of the county designated in the proclamation to the place where the fugitive may be arrested, the distance to be computed by the route most usually traveled, and such other necessary expenses as he is required to expend in reclaiming and transporting the fugitive. If the agent is not capable of identifying the fugitive he shall further be allowed the mileage and necessary expenses of a person taken with him to identify the fugitive. If the agent is not given possession of the fugitive for reasons beyond the agent's control he shall nevertheless be allowed the compensation prescribed in this section. Upon the return of the fugitive to the county in which is located the jail named in proclamation, the person having him in charge shall go before a magistrate, who shall issue a mittimus to the jailer to receive the prisioner and keep him until he is discharged.

By Mr. White.

H. B. 305. An Act repealing sections 1277, 1277a-1, 1277a-2, 1277a-3, 1277a-4, 1277a-5, of Kentucky Statutes 1936 Edition, relating to the sale and gift of cigarettes to minors and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 1277, 1267a-1, 1277a-2, 1277a-3, 1277a-4,

1277a-5 of the Kentucky Statutes, 1936 Edition, relating to the sale and gift, of cigarettes to minors be and they are hereby repealed.

Whereas, for more than 35 years, the above mentioned sections have been the law of this Commonwealth, and,

Whereas, little if any effort have been made to enforce the above sections, by the constbles, policemen, town marshals, sheriffs, or his deputies, and,

Whereas, it is no longer considered by the great mass of people living within this great Commonwealth, that it is a crime for minors (both males or females) to smoke cigarettes, and Whereas,

The State of Kentucky being one of the leading tobacco states of the Union and, that a large amount of revenue is being derived from the sale of cigarettes due to the tax placed upon this article by the 1936 legislature, an emergency is hereby declared to exist, and this act shall become effective immediately upon its passage and approval of the Governor.

By Mr. White.

H. B. 306. An Act to amend and reenact section 237 of Carroll's Criminal Code of Practice, Baldwin's 1932 Edition relating to separate trials in felony cases.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 237 of Carroll's Criminal Code of Practice, Baldwin's 1932 edition, be amended and re-enacted so that same as amended and re-enacted shall read as follows:

"If two or more defendants be jointly indicted for a felony the court, in its discretion, may grant or refuse any defendant a separate trial."

By Mr. Wagner.

H. B. 307. An Act relating to revenue and taxation of gasoline, amending Sections 4281g-8 and 4281g-10 of the Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 4281g-8 and 4281g-10, Carroll's Kentucky Statutes, 1936 Baldwin's Revision, be amended so that said sections as amended shall hereafter read as follows:

Reports required on gasoline received.—Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month transmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of gasoline received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information.

a. An itemized statement of the number of gallons of all gasoline received during the next preceding calendar month by such dealer, which has been produced, refined, manufactured or compounded by such dealer in the State of Kentucky.

b. An itemized statement of the number of gallons of all gasoline received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the gasoline falling within the provisions of (a) above, together with a statement showing the date of receipt of such gasoline, the name of the person from whom purchased, the date of receipt of each shipment of gasoline, the

point of origin and the point of destination, the quantity of each said purchases or shipment, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge or vessel if shipped by water.

c. An itemized statement of the number of gallons of received gasoline, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold to any municipality of this Commonwealth for municipal purposes.

(3) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or cargo sales of gasoline, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(4) Lost through accountable losses which have been reported and approved in writting by the Department as provided in Section 2-g of this Act.

(5) Exported or sold for export from the State of Kentucky to any other State or to any foreign country.

d. Such other information as may be required by the Department.

§ 2. That Section 4281g-10, Carroll's Kentucky Statutes, 1936 Baldwin's Revision, be amended so that said section as amended shall hereafter read as follows:

Computation and payment of tax.—a. From the total

number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar, month, the following deduction shall be made:

(1) The total number of gallons of gasoline received by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 9, paragraph (c), items (1), (2), (3), (4) and (5) of this Act.

(2) That number of gallons of gasoline which shall be equal to two and one-fourth (2¼%) per cent of the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, less the total number of gallons deducted under subparagraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

b. The tax at the rate of five cents (5c) per gallon of gasoline shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of gasoline tax payable for the next preceding calendar month.

Reports required in Section 8 shall be accompanied by a certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

By Mr. Hunnicutt.

H. B. 308. An Act to amend section 744 of the Civil Code of Practice and authorizing the court of Appeals to require by rule a deposit for costs.

Said Bill is as follows, viz.:

WHEREAS a large amount of money is now lost each year by the Commonwealth of Ketucky by reason of nonpayment of costs due to the Commonwealth from appellants

in cases taken to the Court of Appeals, which loss causes an extra burden to the taxpayers of the Commonwealth, now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 744 of the Civil Code of Practice, relating to costs in the Court of Appeals, is amended and re-enacted to read as follows:

The appellant may be required to give security for costs, as plaintiffs in civil action may be so required. The Court of Appeals may by general rule require a deposit for costs in that Court, payable to the Commonwealth, not exceeding Fifty Dollars as to any party.

By Mr. Shaikun.

H. B. 309. An Act to repeal, amend and re-enact section 2857, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to special park police for parks, boulevards and parkways of cities of the first class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 2857 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be repealed, amended and re-enacted so that same when amended and re-enacted shall read as follows:

Boards of Park Commissioners of cities of the first class are, with the approval of the legislative body of said municipalities, hereby authorized and empowered to elect or appoint a special police force to consist and be composed of such number, rank and grade as the said board shall deem proper. Said Board of Park Commissioners is authorized and empowered to prescribe the term of office of said police force

and to establish all necessary rules and regulations for the government and discipline of same, to fix and enforce punishment of the said members of said force for the violation of such rules and regulations as may be promulgated by said Board of Park Commissioners and to dismiss or suspend any or all of said police for such cause as said Board of Park Commissioners may deem sufficient and to elect others to fill the vacancies caused by dismissal or for any other cause.

The members of such special park police force shall qualify by taking an oath before any person authorized to administer oaths to faithfully perform their duties as such officers and may or may not within the discretion of said Board of Park Commissioners be required to give bond and there is hereby conferred upon all of the officers and members of said special park police force the power to make arrests in any parks or park property or upon any parkways or boulevards under the control of the Board of Park Commissioners of cities of the first class whether the offense or violation for which such arrest is being made was committed upon park property, parkways, boulevards or property under the control of said Board of Park Commissioners, and any and any and all persons so arrested or taken into custody by members of said special park police shall be tried in courts having jurisdiction over the place where the offense for which such arrest was made was committed.

The Board of Park Commissioners may require the oath herein referred to be either in written or printed form and subscribed to by the person making same and a full and complete record of the time of the appointment and qualifications of each and all members shall be carefully kept and preserved by said Board of Park Commissioners and is hereby declared to be a matter of public record.

The special park police and all members thereof shall at all times be under the control of and paid by such Board of Park Commissioners.

By Mr. Hammons.

H. B. 310. An Act to create the office of stenographer or clerk to the County Judge in all counties containing a part of a city of the third class located more than fifteen miles from the county seat in said county and fixing the powers and duties and salary of the said stenographer or clerk to the county judge.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby created the office of stenographer or clerk to the county judge in all counties containing a part of a third class city located more than fifteen miles from the county seat in said county; said stenographer or clerk to the county judge shall be appointed by the county judge and shall serve at the pleasure of the county judge and may be removed at any time by the county judge.

§ 2. It shall be the duty of said stenographer to do stenographic work and typewriting for said county judge, and said stenographer shall perform such other duties as may be assigned to him by said county judge.

§ 3. The salary of said stenographer or clerk may be fixed by the fiscal court not to exceed $1,500.00 per annum, payable out of the county levy in equal monthly installments; provided, however, said stenographer shall not be appointed except when authorized by the fiscal court of the county.

§ 4. Said stenographer shall by virtue of his office have the same power of administering an oath as a notary public.

By Mr. Hickey.

H. B. 311. An Act to amend and reenact Section 17, Chapter 155 of the Acts of the General Assembly of Ken-

tucky enacted at its regular session in 1893, edited as Section 388, Kentucky Statutes, Carroll's 1936 edition, relating to record books required by circuit and county court clerks.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 17, Chapter 155, of the Acts of the General Assembly of Kentucky, enacted at its regular 1893 session, edited as Section 388, Kentucky Statutes, Carroll's 1936 edition, be amended and re-enacted and when so amended and re-enacted shall read as follows:

All the record books required by circuit and county court clerks where the state of Kentucky receives revenue shall be procured by the clerk upon order of the court of which he is clerk, and shall be paid for by the state of Kentucky. It is further provided that the aforesaid clerks shall file a certified copy of the court's orders requisitioning their needs with the State Purchasing Commission. Said commission shall purchase said record books in the same manner as is now provided by law for other purchases made by the state.

All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

This law is not to become effective until July 1st, 1942.

By Mr. Simpson.

H. B. 312. An Act fixing the fees to be allowed county court clerks for their services rendered in connection with and in relation to primary, special and general elections, but with no application to existing laws now allowing fees to them for their services rendered in connection with or in relation to registering and certifying list of voters.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the county court clerks of the various counties of the Commonwealth of Kentucky shall be paid by the fiscal court as compensation for all services now rendered by them as by law required in connection with and in relation to the various primary, special and general elections held from time to time, an amount not to exceed the sum of five dollars ($5.00) for each voting precinct within the county of any such clerk where such elections are held, up to fifty (50) voting precincts, and any such clerk in any county having more than fifty (50) voting precincts therein may in addition to the sum hereby allowed him receive an amount not to exceed two dollars and fifty cents ($2.50) for each such additional voting precinct in excess of fifty (50) such precincts, all of which shall be paid as other election expenses are now allowed and paid.

§ 2. That this act shall have no applicaiton to existing laws allowing fees to the county clerks for their services rendered in connection with or in relation to registering and certifying lists of voters.

§ 3. That all laws and parts of laws in conflict herewith are hereby expressely repealed.

By Mr. Beard.

H. B. 313. AN ACT amending and re-enacting Section 6, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, by providing that voluntary abandonment of wife or husband by the other and living thereafter in adultery without subsequent reconciliation and cohabitation forfeits all right to or interest in the recovery for death from negligence or wrongful act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 6 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby amended by adding at the end of Subsection First as a part of same and before the second subsection the following words:

"If, however, said wife of said deceased had prior to said decendent's death voluntarily left her husband and lived in adultery, or if the husband had voluntarily left his wife before her death and lived in adultery, then the party so offending shall forfeit all right to or interest in said recovery herein, and same shall be distributed as hereinafter provided in Section 3, unless before said death for which recovery is provided herein said husband and wife become reconciled and live together as husband and wife", so that said Section 6 as amended and re-enacted reads as follows:

§ 6. Whenever the death of a person shall result from an injury inflicted by negligence or wrongful act, then in every such case, damages may be recovered for such death from the person or persons, company or companies, corporation or corporations, their agents or servents, causing the same, and when the act is willful or the negligence is gross, punitive damages may be recovered, and the action to recover such damages shall be prosecuted by the personal representative of the deceased. The amount recovered less funeral expenses and the cost of administration, and such costs about the recovery, including attorney fees as are not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order, viz.:

First—If the deceased leaves a widow or husband, and no children or their descendants, then the whole to such widow or husband. If, however, said wife of said deceased had prior to said decedent's death voluntarily left her

husband and lived in adultery, or if the husband had voluntarily left his wife before her death and lived in adultery, then the party so offending shall forfeit all right to or interest in said recovery herein, and same shall be distributed as hereinafter provided in Section 3, unless before said death for which recovery is provided herein said husband and wife become reconciled and live together as husband and wife.

Second—If the deceased leaves either a widow and children or a husband and children, then one-half to such widow or husband and the other one-half to the children of the deceased.

Third—If the deceased leaves a child or children, but no widow or husband, then the whole to such child or children. If the deceased leaves no widow, husband or child, then such recovery shall pass to the mother and father of deceased, one moiety each, if both be living; if the mother be dead and the father be living, the whole thereof shall pass to the father; and if the father be dead and the mother living, the whole thereof shall go to the mother; and if both father and mother be dead, then the whole of the recovery shall become a part of the personal estate of the deceased; and after the payment of his debts, the remainder, if any, shall pass to his kindred more remote than those above named, as is directed by the general law on descent and distribution.

By Mr. Daugherty.

H. B. 314. An Act to simplify and clarify the statute laws of the commonwealth by repealing sections of the compiled statutes and of the Acts of the General Assembly that are obsolete, unconstitutional, duplicating, redundant, or have been repealed by implication.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The following sections of Carroll's Kentucky Statutes, 1936 edition, are repealed, to-wit:

9, 12-7, 14a-4, 31, 33a-1, 33a-12, 33a-15, 33a-16, 33a-17, 33a-18, 37-1, 37-13, 37-14, 40, 42, 42b-2, 42c-3, 42c-9, 42d-4, 42e-1, 42e-3, 42e-5, 63b-3, 63b-17, 63c-12, 63c-21, 68a-10, 68b-1, 68b-36, 68b-38, 73-15, 80, 98a-10, 101, 119, 125b-4a, 125b-4b, 125b-4c, 125b-4d, 132, 137, 139, 139a, 139b, 151, 165-25, 165-43, 165-44, 165a-3, 165a-4, 165a-38, 165a-52, 165a-54, 165a-55, 165a-58, 165a-59, 165a-63, 165b-2, 165b-3, 165b-4, 165b-5, 165b-6, 165b-7, 165b-8, 165b-9, 165b-10, 165b-11, 165b-13, 165b-14, 165b-15, 165b-16, 165b-17, 165b-18, 165b-19, 165b-20, 165b-21, 165b-22, 186a-6, 186a-7, 186a-8, 186a-9, 186a-10, 186a-11, 186c-8, 199b-2, 201e-19, 201e-24, 201g-19, 205, 216a-1, 216a-5, 216a-17, 216aa-1, 216aa-2, 216aa-3, 216aa-24, 216aa-25, 216aa-28, 216aa-29, 216aa-31, 216aa-107, 216c-1, 216c-2, 217, 273a-2, 273a-3, 275, 290, 290a, 293, 295, 296, 298, 298a, 298b, 298c, 298d-1, 298d-2, 298d-3, 298d-4, 298e, 299, 306, 308, 309, 310, 324a-1, 324a-2, 324a-3, 331a-17, 331a-18, 331b-1, 331b-2, 331e-22, 331e-23, 331g-5, 331g-6, 331h-1, 331h-2, 331L-1, 331L-2, 331L-4, 331L-5, 331L-14, 331L-27, 331L-29, 331m-8, 332, 339a-1, 339a-2, 339a-3, 339a-4, 339a-5, 339a-6, 339a-7, 339a-8, 339a-9, 339a-10, 339a-11, 339a-12, 339a-13, 339a-14, 339a-15, 339a-16, 339a-17, 339a-18, 339a-19, 339a-20, 343, 346, 347, 348, 349, 350, 351, 351a-1, 351a-2, 358, 359a-2, 359a-3, 360, 362, 366, 415a-1, 415a-2, 415a-3, 415a-5, 415a-6, 415a-6a, 415a-7, 415a-9, 415a-10, 415b, 415b-1, 415b-2, 415b-3, 415b-4, 415b-5, 415b-6(1), 415b-13, 415c-1, 415c-2, 415c-3, 415c-4, 422, 478, 479, 498c, 505, 518, 523, 537b-1, 554, 555a, 568, 574, 578, 604, 605, 643, 650, 682, 692a, 709, 722a-5, 726, 740, 741, 742, 743, 745, 747, 758, 762b-1, 762b-2, 762b-3, 762b-4, 762b-36, 762b-37, 762f-24, 766, 770, 785, 808, 820c-4, 823, 854c, 854d, 874, 883f-1, 883f-29, 883f-33, 883f-35, 883g-28, 883i-26, 902, 907, 916, 920, 938b-19, 938b-20, 938b-21, 938b-22, 938b-23, 938c-2, 938e-2a, 938e-4, 938g-26, 938g-27, 938h-60, 938h-61, 938h-62, 938j-8, 938j-9, 938k-2i, 938k-5, 950-4, 962b-2, 963-1, 963aa, 963b-1, 963c-1, 963c-2, 963c-

3, 964b-2, 964b-3, 967, 969, 971-9, 971-15, 983, 1020-11, 1020-13, 1020-14, 1020-21, 1020-22, 1020-27, 1020-28, 1020a-2, 1078, 1083a-15, 1083a-16, 1091, 1137-9, 1137-10, 1148, 1148a-13, 1173, 1175, 1176, 1178, 1215b-2, 1241b, 1241b-1, 1241b-2, 1241b-3, 1290a-1, 1290a-14, 1290a-16, 1324, 1334, 1343, 1358-4, 1376b-28, 1376b-29, 1376b-30, 1376q-1, 1376r-9, 1405, 1406, 1482a, 1485, 1486b-39, 1486b-40, 1486b-42, 1486b-53, 1486b-58, 1486b-59, 1486b-60, 1486b-61, 1486bb-3, 1486bb-24, 1496a-4, 1516, 1517, 1518, 1519, 1550-1h, 1589, 1596a-21, 1596b-1, 1596b-2, 1596c-1, 1596c-2, 1596c-3, 1596c-5, 1596c-7, 1599a-2, 1599a-13, 1599d-9, 1729, 1732a-3, 1795, 1798, 1830, 1831, 1832, 1841, 1851a-1, 1851a-2, 1851a-3, 1851a-4, 1851a-5, 1851b-10, 1854, 1870, 1871, 1905a-56, 1905a-60-7, 1925a-11, 2002, 2004, 2007, 2007h-1, 2007h-3, 2007i-27, 2007i-28, 2007k-11, 2007k-17, 2007k-18, 2007k-19, 2007k-20, 2007k-21, 2008a, 2032-1, 2035a-2, 2043-19, 2043-20, 2045, 2061a-30a, 2061a-31, 2061a-32, 2062a-25, 2062c-1, 2062c-2, 2089a-4, 2089a-5, 2095b-1, 2095b-2, 2095b-3, 2095b-5, 2095b-6, 2095b-14, 2095b-16, 2095b-21, 2095b-22, 2095b-23, 2095b-30, 2095b-33, 2099, 2175b-1, 2175b-2, 2175b-3, 2175b-4, 2175b-5, 2175b-6, 2179a-2, 2201, 2240a-3, 2254, 2317a, 2320, 2322, 2337a-7, 2337a-8, 2337a-9, 2337a-10, 2339, 2375, 2376g, 2376g-1, 2376g-2, 2376g-3, 2376h-2, 2380-44, 2380-50, 2380c-3, 2417, 2417c-10, 2417c-11, 2417c-12, 2417c-24, 2419a-2, 2419a-3, 2438c-1, 2438c-2, 2438c-3, 2438c-6, 2438c-7, 2438c-14, 2438c-15, 2438c-16, 2439-1, 2439-2, 2439-3, 2440, 2441, 2442, 2443, 2453, 2460, 2479, 2483, 2484, 2554c-42, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2613a-4, 2635b-4, 2636-22, 2636-23, 2643a-15, 2643a-16, 2711a-143, 2711a-200, 2711a-225, 2711a-226, 2711a-228, 2711a-242, 2711a-243, 2711a-244, 2739e-13, 2739g-2c(1), 2739g-66, 2739g-67, 2739g-68, 2739g-69, 2739g-73, 2739g-75, 2739g-78, 2739g-79, 2739g-94, 2739g-101, 2739g-102, 2739j-27-2, 2739j-27-3, 2739j-36, 2739j-40, 2739j-41, 2739j-53, 2739j-62, 2739j-96, 2739j-97, 2739k-2, 2739m-57, 2739m-60, 2739m-63, 2739m-64, 2739n-36, 2741d-13, 2741j-1, 2741j-2, 2741j-3, 2741j-4, 2741j-5, 2741j-6, 2741k-9, 2741L-42, 2741r,

2741y-1, 2741y-2, 2758, 2766, 2783, 2801b-11, 2839b-5, 2839b-33, 2839b-34, 2839b-35, 2859, 2893, 2895, 2896a-1, 2896a-2, 2896a-5, 2902-1, 2909-1, 2932, 2948-2, 2948b-1, 2948b-10, 2979, 3037f-13, 3037f-15, 3037g-6, 3037g-82, 3037g-83, 3037h-123, 3037h-136, 3037h-137, 3037i-24, 3037i-26, 3037i-27, 3037i-28, 3037i-29, 3037j-1, 3037j-2, 3037j-3, 3037k-22, 3072, 3077, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3093a-1, 3093a-2, 3104a-10, 3187k, 3196, 3197, 3198, 3199, 3200, 3208, 3209, 3235d-2, 3235dd-51, 3235dd-52, 3235f-12, 3235f-13, 3235g-29, 3235g-30, 3247, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3401, 3459f-6, 3459f-7, 3480c-52, 3480c-53, 3480d-21, 3480d-22, 3491, 3496, 3549, 3579, 3579a-5, 3606b, 3606c-36, 3606c-37, 3619, 3620, 3650, 3672, 3689, 3703, 3712, 3720c, 3766a-12, 3766a-14, 3766b-19, 3766b-20, 3766bb-15, 3766bb-16, 3766d-1, 3766d-2, 3766d-3d, 3766d-5, 3766d-6, 3766d-8, 3766e-13, 3766e-14, 3766e-15, 3766e-20, 3766e-21, 3766e-22, 3766e-23, 3766e-24, 3766e-29, 3815, 3827, 3828-10, 3828-11, 3828b-16, 3828b-17, 3836a-5, 3836b, 3858-1, 3909b-11, 3909b-12, 3941e-16, 3941k-3, 3941k-9, 3941k-10, 3941k-11, 3942a-1, 3942a-2, 3942a-3, 3942a-4, 3942a-5, 3942a-6, 3942a-7, 3942b-1, 3942c-1, 3942c-2, 3942d-1, 3942d-2, 3943, 3945, 3946, 3953, 3985, 3990-1, 3990-2, 3990-3, 3990-8, 3990-10, 3990-11, 3990-18, 4001a-1, 4001a-2, 4001a-3, 4018, 4019-1, 4019-2, 4019-3, 4019-4, 4019a-9, 4026, 4042, 4093, 4094, 4095, 4121, 4128a-4, 4189-9, 4189-10, 4202a-22, 4202a-23, 4214a-12, 4224a-2, 4257b-2, 4281a-53, 4281b-38, 4281b-39, 4281e-16, 4281f-22, 4281g-9, 4281g-22, 4281h-18, 4308-1, 4313, 4314, 4315, 4316, 4317, 4319, 4346a-6, 4347, 4356, 4356k, 4356s, 4356s-15, 4356s-38, 4356t-3g, 4356v-1, 4356z-13, 4356za-18, 4356za-19, 4356zb-7, 4356zb-8, 4363-3, 4377-1, 4377-3, 4377-6, 4377-11, 4399-28, 4421a-47, 4421c-13, 4503-10, 4527-45, 4527-84, 4551, 4554, 4588, 4589, 4590, 4606, 4606a-2, 4618-1, 4618-2, 4618-3, 4618-4, 4618-5, 4618-7, 4618-8, 4618-9, 4618-10, 4618-11, 4618-15, 4618-16, 4618-19, 4618-24, 4618-25, 4618-26, 4618-29, 4618-31, 4618-32, 4618-33, 4618-34, 4618-35, 4618-41, 4618-42, 4618-44, 4618-45, 4618-49, 4618-51, 4618-52,

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§ 2. The following sections of the Acts of 1936, fourth extraordinary session, are repealed, to-wit:

Chapter 1, sections 16 and 17
Chapter 6, section 30
Chapter 13, section 5
Chapter 15, sections 12 and 13
Chapter 17, sections 1 to 7, inclusive
Chapter 21, sections 6 and 8
Chapter 24, section 4

§ 3. The following sections of the Acts of 1938, regular session, are repealed, to-wit:

Chapter 2, sections 8 and 119
Chapter 7, sections 8 and 9
Chapter 15, section 12
Chapter 16, section 8
Chapter 17, section 10

Chapter 18, section 32
Chapter 29, section 10
Chapter 32, section 11
Chapter 44, section 23
Chapter 49, sections 3 and 7
Chapter 50, sections 21 and 22
Chapter 53, section 12
Chapter 54, section 20
Chapter 90, sections 1 and 7
Chapter 92, section 18
Chapter 93, sections 17, 24 and 25
Chapter 96, section 2
Chapter 105, sections 20, 21 and 22
Chapter 106, section 15
Chapter 107, section 73
Chapter 111, sections 18 and 18b
Chapter 133, sections 1 to 28, inclusive
Chapter 140, sections 1 and 13
Chapter 148, sections 20 and 21
Chapter 172, sections 17, 30, 32, 33, 36 and 37

§ 4. The following sections of the Acts of 1938, first extraordinary session, are repealed, to-wit:

Chapter 1, section 52
Chapter 11, section 7
Chapter 22, section 4
Chapter 29, section 6
Chapter 31, sections 17 and 18
Chapter 37
Chapter 38, section 48

§ 5. Sections 19 and 21 of Chapter 1 of the Acts of 1938, second extraordinary session, are repealed.

Chapters 123 and 176 of the Acts of 1930 are repealed.

By Mr. Thomas.

H. B. 315. AN ACT relating to Game and Fish and prohibiting the placing in any public water any substance which causes said water to be unfit for the support of aquatic life and to repeal, amend, and reenact Section 1954d-29 of the Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1954d-29 of the Kentucky Statutes shall be repealed, amended, and reenacted so that when said section is repealed, amended, and reenacted it shall read as follows: It shall be unlawful for any person for himself or as agent or employee whether acting in a private or public capacity to place or suffer to be placed in any public waters within this State any substance which causes said waters to be unfit for the support of aquatic life. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof before any Court of competent jurisdiction shall be fined not less than fifty dollars nor more than five hundred or be subject to imprisonment for not less than ten days nor more than sixty days or both fine and imprisonment.

By Mr. Thomas.

H. B. 316. An Act amending and re-enacting Section 1895, Kentucky Statutes, 1936 edition, relating to poison, drug or bait; penalty for using.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any person or persons who shall place or cause to be placed in any of the waters of this state any drug, poison-

ous substance or medicated bait, with intent thereby to injure, poison or catch fish, shall be guilty of a felony and, on conviction thereof, shall be imprisoned in the state penitentiary for not less than one year nor more than two years, for each offense.

By Mr. Thomas.

H. B. 317. An Act to repeal sections of Carroll's Kentucky Statutes, Acts of 1930, Chapter 1, sections 1 to 37, inclusive, requiring the licensing of anyone owning, harboring or protecting a dog.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All Acts or parts of Acts which are in conflict or inconsistent with this Act are, to the extent of such conflict or inconsistency, hereby repealed.

By Mr. Chapman.

H. B. 318. An Act providing for the revocation of hunting, fishing, trapping seining, hoopnet and fur buyers or dealers and mussel licenses.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any person convicted for the second time of violating any of the provisions of Chapter 57, which includes sections 1954D-1 to 1956D-73 inclusive of Carroll's Kentucky Statutes shall in addition to the punishment imposed by law be required to surrender to the court trying the case his hunting, fishing, trapping, seining, hoop net, fur buyers or dealers or mussel license, whichever may apply under the charge for which he has been convicted. It shall be the duty of the court to enter

an order revoking said license or licenses and the person having such license or licenses so revoked shall not be issued another license for one year from the date of such conviction. In the event said license or licenses cannot be obtained the person convicted shall be required to state under oath the circumstances under which said license or licenses were destroyed, misplaced, or lost. The said license or licenses or a certified copy of the statement made by the convicted person under oath as to the disposition of said license or licenses shall be forwarded immediately by the court or the clerk of the court to the Director of the Division of Game and Fish.

By Mr. Chapman.

H. B. 319. AN ACT relating to Game and Fish and providing the method manner and time of taking wild animals, wild birds and fish; providing a punishment for the violation of the provisions thereof; repealing, amending and re-enacting sections 1954D-14, 1954D-16, 1954D-17, 1954D-21, 1954D-27, 1954D-56 and 1954D-57 of Carroll's Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1954D-14 of Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when section is repealed, amended and re-enacted it shall read as follows:

No person shall sell or buy at any time, in this state, any species of wild animal, wild bird or fish which are protected by this Act subject however, to the following exceptions:

The pelts of fur bearing animals, Rabbits and fish, legally in possession may be bought or sold. These exceptions however, do not apply to the species of fish known as Black Bass, Crappie, Jack Salmon or Wall Eyed Pike or Striped Bass.

Any person buying or selling or directing the buying or selling of any wild bird, wild animal or fish in violation of the provisoins of this section shall be guilty of a misdemeanor and shall be fined not less than twenty-five ($25.00) dollars or more than two hundred ($200.00) dollars for each offense. No person for himself or as agent or employee shall transport or direct to be transported any wild birds, wild animals or fish protected by this act except as follows:

No person who is a dealer or merchant shall have in his possession at any time more than sixteen Rabbits and he is authorized to transport or sell said Rabbits in any manner provided they are legally in possession; however, said dealer or merchant shall not sell any Rabbits for the purpose of transportation beyond the boundaries of Kentucky.

Any person who has been issued a license under the provisions of this Act and has said license in his possession may transport out of the state or anywhere in the state as part of his personal baggage a quantity of wild birds, wild animals or fish not in excess of two days bag limit at the time of transporting. The provisions of this section shall not in any way interfere with the buying, selling and transporting of the skins of fur bearing anmials or the transporting of any wild animals, wild birds or fish by the authorized officers of the Division of Game and Fish. Any person transporting or directing the transportation of any wild birds, wild animals or fish in violation of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof before any court of competent jurisdiction shall be fined not less than fifteen ($15.00) dollars nor more than one hundred ($100.00) for each offense.

That Section 1954D-16, Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

The fees required for licenses provided for by this Act shall be as follows:

As to residents of Kentucky:

A license authorizing the holder thereof to hunt within the boundaries of the county for which it is issued ($1.15) one dollar and fifteen cents. A resident of Kentucky obtaining a county hunting license shall not be required to be a resident of the county wherein the license is obtained. A county hunting license shall be required for the privilege of hunting in each county unless a statewide hunting license is obtained. The fee for a statewide hunting license shall be ($3.25) three dollars and twenty five cents and shall authorize the holder thereof to exercise the privilege of hunting in any county in the State of Kentucky without the necessity of purchasing any additional license or paying any additional fee.

Fishing license	$1.00
Trapping license	$1.00
Seining license and one tag for 100 feet of seine or part thereof	$5.25
Additional tags per 100 feet of seine or part thereof	$2.00
Hoop net license	$1.25
Each additional hoop net	$1.00
Fur buyers or dealers	$2.00

As to non-residents of Kentucky:

Hunting license (limited to one season)	$15.50
Fishing license (limited to one season)	$2.50
Fishing license (for 7 consecutive days)	$1.00
Trapping license	$10.50
Seining license	$10.50
Tags per hundred feet of seine or part thereof	$4.00
Hoop net license	$2.50
Each additional hoop net	$2.00
Fur buyers or dealers	$75.00

In each of the non-resident, seven consecutive day licenses issued, the County Clerk shall state the day such licenses begin.

And provided further that no person shall take or trap

for any wild animals or fish or take wild birds without having the license provided therefor in his possession and the button or badge provided therewith attached to the outside of his clothing in a conspicuous manner and upon the failure to do so he shall be guilty of a misdemeanor and upon conviction thereof before any Court of competent jurisdiction shall be fined not less than fifteen dollars, nor more than one hundred dollars for each offense.

That Section 1954D-17 of Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

The County Court Clerk shall retain of money received for each resident county hunting license, each resident fishing license and each resident trapping license, for each non-resident seven day fishing license, for each additional 100 feet of seine or part thereof, and for each additional hoop net license the sum of (.15c) fifteen cents; for each seining license and one tag for 100 feet of seine or part thereof, for each hoop net license, for each resident state wide hunting license, and for each non-resident season fishing license the sum of twenty-five (.25c) cents; for each non-resident hunting license, for each non-resident seining license and one tag for 100 feet of sein or part threof, for each non-resident trapping license, the sum of (.50c) fifty cents. The fees above provided shall cover the swearing of the applicant to the affidavit referred to in this Act, and all other services under this Act. Said County Clerk shall pay the balance remaining after deducting his fee, to the State Treasurer, on the first of each month, which amount shall be converted into the Game and Fish fund, and the said County Clerk shall report to the said Director on the first day of each month the number and kind of licenses and tags issued and the amount of money remitted to the State Treasurer.

The County Court Clerk shall issue all licenses and tags

provided for in this Act except as is otherwise herein provided to all applicants complying with the provisions of this Act and only on written application subscribed and sworn to before the said Clerk upon forms provided therefor by the Division and the said Clerk shall sign said licenses and shall require the persons to whom the licenses and tags are issued to sign his or her name on the margin thereof. Said Clerk shall keep a correct and complete copy of all licenses issued in a book to be furnished by the Division, which record shall remain in his office and be open to the inspection of the public during all office hours.

That section 1954D-21 of Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

The Director, all Conservation Officers and all other persons so appointed by said Director, Sheriffs and their deputies, Constables and their deputies and peace officers shall seize and take possession of any and all furs, fish, wild animals, wild birds, guns, dogs, instruments, boats or devices which have been caught, taken, killed, captured, used, transported or possessed contrary to the provisions of this Act or any other law of the state relating to fish or game. Any Court having jurisdiction may upon complaint showing probable cause for believing that any of the wild animals or wild birds protected by the provisions of this Act or of any law of this state relating to game and fish are concealed or illegally kept in any building, car or receptacle issue a search warrant and cause a search to be made in any place or places. Any wild birds, wild animals, fish, articles, instruments or devices seized in accordance with the provisions of this section shall be impounded by the arresting officer and shall be taken before the court trying the person arrested. If the person accused of a violation of this act is convicted the court or the jury trying the case shall have the discretion of determining whether or

not the furs, fish, wild animals, wild birds, guns, dogs, instruments or devices seized by the officer shall be declared contraband. Any of such items, which may be declared contraband, the court shall enter an order accordingly, a copy of which shall be sent to the Director and the contraband shall be placed in the custody of the arresting officer to be delivered to the Director of the Division of Game and Fish and disposed of as follows:

The Director is hereby authorized to sell to resident of this State, at the highest market price obtainable therefor, with the approval of the Governor and the Director of Purchases and public Properties, all furs, fish, game, game animals, birds, guns, dogs, devices and boats which shall come to their possession as contraband under the order of any Court or Magistrate or which has been seized under this Act, and declared to be contraband by this Act or any other law of this State relating to fish or game. One half of the net proceeds of sale shall be paid to the officer or other persons appointed by said Director, Sheriff or his deputy, Constable or his deputy, or peace officer, who seized said article of contraband, and the other half of such proceeds thereof shall be turned into the State Treasury and credited to the Game and Fish fund. A record of such sale, including the name of the purchaser and the price paid, shall be kept by the Director.

That Section 1954D-27, Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

Any wild birds, wild animals or fish taken or possessed contrary to the provisions of this Act and any devices used or possessed contrary to the provisions of this Act are hereby subject to being declared contraband and the arresting officer shall take possession of same and dispose of in the manner provided by this Act.

That Section 1954D-56 Carroll's Kentucky Statutes shall

be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

Any prson who takes wild animals protected by this Act within the boundary of this state except by trapping, gun (said gun to be no larger than a ten gauge and fired from the shoulder and shall, if a shot gun, has the magazine therof, if any, plugged with a solid wooden or metal plug in such a way that the gun will hold not more than three cartridges) gun and dog, or dog, shall be guilty of a misdemeanor and upon conviction therefor before a court of competent jurisdiction shall be fined not less than fifteen (15.00) dollars and not more than one hundred (100.00) dollars for each offense.

That Section 1954D157, Carroll's Kentucky Statutes shall be repealed, amended and re-enacted so that when said section is repealed, amended and re-enacted it shall read as follows:

Any person who takes or has in his possession in this state any wild animal protected by this act except during the open season for the particular species provided herein shall be guilty of a misdemeanor and upon conviction therefor before a court of competent jurisdiction shall be fined not less than fifteen (15.00) dollars and not more than one hundred (100.00) dollars for each offense. Said open seasons are as follows:

Mink, Opposum, Raccoon, Fox, Skunk and Muskrat November 24, to January 9, inclusive. Otter, Beaver, no open season. Squirrel, August 15, to October 31, inclusive. Rabbits November 24, to January 9, inclusive.

That any amendment to the cost of license or fees to county court clerks shall not take effect until January 1, 1941.

By Mr. Sparks.

H. Res. 45. A resolution authorizing Sam Engle, to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, the State Highway Commission of Kentucky took and hauled away from the lands of Sam Engle, in Perry County, Kentucky, on the Troublesom Creek, near Ary Kentucky Post Office, during the year 1938, 3.536 yards of gravel for the use of the State Highway Commission of Kentucky and placed said gravel on the State Highways of Perry County, Kentucky, and agreeing at the time they took same to pay for same.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Sam Engle, be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky, and the State Highway Commission of Kentucky, in the Perry Circuit Court for the value of 3,536 yards of gravel taken and removed from his land in Perry County on Troublesom Creek by its agents and employees, same shall be paid by the Auditor by warrant on the State Treasury out of the State Highway Funds.

Settlement may be made and this matter settled and adjusted by the State Highway Commission of Kentucky, if suit is filed the trial in the Perry Circuit Court will proceed as other Civil Cases.

By Mr. Neikirk.

H. Res. 46. A RESOLUTION authorizing Nancy Newell, Grace Smith and Raymond Smith, her husband, Kate Newell, George Newell, Mayme Newell Shipp, and Jim Shipp, her husband, Anette Newell, and Oleta Newell, an infant by her guardian, or next firiend, to prosecute suit against the Commonwealth of Kentucky and the State Highway Commission, or either of them.

Said resolution is as follows, viz.:

WHEREAS there is a public highway, to-wit Highway No. 90 running Westward from Burnside, Kentucky past the

farm belonging to Nancy Newell, Grace Smith and Raymond Smith, her husband, Kate Newell, George Newell, Mayme Newell Shipp, and Jim Shipp, her husband, Anette Newell, and Oleta Newell; and whereas this said Highway forms a part of the State Highway System of the Commonwealth of Kentucky, and was constructed, and is now and has at all times in the past been maintained and kept in repair by the State Highway Commission of this Commonwealth and,

WHEREAS, within the past five years the State Highway Commission in constructing and reconstructing and maintaining a drainage system along this Highway, past the farm of above parties, has negligently allowed the ditches along above parties farm to erode and wash away a great portion of the land belonging to these parties and has allowed said ditches to become obstructed and the water to back up and overflow the lands of these said parties, and said erosion and overflowing has constantly continued damaging this land and is still damaging and washing said land away; and,

WHEREAS, the damages to said lands so caused thereby amounts to $1000.00 and constitutes a continuing damage to these said lands:

NOW in order to determine by judicial action the question of liability for said damages aforesaid, and in order, if the State Highway Commission be found liable, to restrain a continuation of said damage,

Therefore be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Nancy Newell, Grace Smith and Raymond Smith, her husband, Kate Newell, George Newell, Mayme Newell Shipp, and Jim Shipp, her husband, Anette Newell, and Oleta Newell, and infant by her Guardian, or next friend, be and they are hereby authorized and empowered to file and prosecute appropriate action or actions against the Commonwealth of Kentucky or the State Highway Commission of Kentucky, or either or both of them, for the purpose of determining the

responsibility of said Commonwealth of Kentucky, or the State Highway Commission of Kentucky, or both or either of them, for damages to said land, if any there be, and for appropriate injunctive relief to prevent a continuation of these said damages, if any there be.

Such action or actions may be brought within five years from the passage of this resolution and in any Circuit Court of the Commonwealth of Kentucky which may have jurisdiction of such matters as provided by the code and laws of the Commonwealth of Kentucky in such cases.

Said suit for this alleged damage to this land shall be for a sum not to exceed $1000.00, and for appropriate injunctive relief, and in the event damage is recovered on such action for damages, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Fund of the State.

Either party of said suit may appeal from any judgment which may be entered therein, as in any other civil action, and the case may be settled and adjusted by and with the consent and approval of the Attorney General of the Commonwealth of Kentucky in the same way and manner as any other civil action may be settled or adjusted.

By Mr. Lee.

H. Res. 47. A RESOLUTION appropriating $124.38 to Owen D. Anderson for services rendered McCreary County Board of Education.

Said resolution is as follows, viz.:

WHEREAS, Owen Donald Anderson of Stearns, McCreary County, Kentucky, was employed by the McCreary County Board of Education to teach in the White Oak Junction school for a term of seven months during the school year

1933-34 at a salary of forty-nine and 75/100 ($49.75) dollars per month; and

WHEREAS, Said Owen Donald Anderson taught under such employment for the period of five months and two weeks with the understanding that a certificate was to be issued to him by the Division of Certification of the State Department of Education on work done in Berea College; and

WHEREAS, Because of a misunderstanding as to credits required in professional subjects no certificate was issued to him by said agency, whereupon he was relieved of further duty by the Board of Education of McCreary County without payment of his salary for the period of two months and two weeks; and

WHEREAS, Said Owen Donald Anderson rendered capable, efficient, and satisfactory services as teacher in aforesaid school, but because of the fact that no certificate was granted to him as expected is unable to draw a salary therefore: Now, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is hereby appropriated out of the general expenditure fund of the Commonwealth the sum of one hundred twenty-four and 38/100 ($124.38) dollars, to be paid to Owen Donald Anderson for services rendered in the White Oak Junction school of McCreary County, Kentucky, as teacher for two months and two weeks in 1933-34.

By Mr. Lee.

H. Res. 48. A RESOLUTION appropriating $184.00 to Georgia Taylor for services rendered Wayne County Board of Education.

Said resolution is as follows, viz.:

WHEREAS, Georgia Taylor, of Monticello, Wayne County, Kentucky, was employed by the Wayne County

Board of Education to teach in the Common Schools of Wayne County, Kentucky, for a period of seven months during the school year of 1929-30; and

WHEREAS, Said Georgia Taylor taught under such employment for the period of three months and two weeks, with the understanding that a certificate was to be issued to her by the Eastern State Teachers College; and

WHEREAS, Because of a misunderstanding as to credits allowed for correspondence work no certificate was issued to her by said school; whereupon she was relieved of further duty by the county superintendent of Wayne County Schools without payment of one hundred and eighty-four ($184.00) dollars due her for the services; and

WHEREAS, Said Georgia Taylor rendered capable, efficient, and satisfactory services as teacher in aforesaid county, but because of the fact that no certfiicate was granted to her as expected is unable to draw a salary therefor: NOW, THEREFORE,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is hereby appropriated out of the general expenditure fund of the Commonwealth the sum of one hundred eighty-four ($184.00) dollars, to be paid to Miss Georgia Taylor for services rendered to the Wayne County Board of Education in the school year 1929-30.

By Mr. Lee.

H. Res. 49. A RESOLUTION appropriating two hundred ninety-six dollars and eighty-seven cents to Hazel Duncan for services rendered McCreary County Board of Education.

Said resolution is as follows, viz.:

WHEREAS, Hazel Duncan was employed by the McCreary County Board of Education to teach in the Worley

school for a term of seven months during the school year 1933-34 at a salary of forty-two and 41/100 ($42.41) dollars per month; and

WHEREAS, Several teachers had declined nomination to the school because of its inaccessibility and the fact that the high cost of board and transportation would practically consume the ridiculously low salary, and said Hazel Duncan could board with an uncle for a nominal sum and

WHEREAS, Said Hazel Duncan taught under such employment for the period of seven months with the understanding that her certificate issued for teaching in the public schools of Tennessee would be validated for teaching in Kentucky; and

WHEREAS, Said Hazel Duncan rendered capable, efficient, and satisfactory services in aforesaid school under conditions which rendered it practically impossible to replace her, but because of the fact that a technicality in the certification law prevented the validation of her certificate is unable to draw her salary therefor; NOW, THEREFORE,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is hereby appropriated from the general expenditure fund of the Commonwealth the sum of two hundred ninety-six and 87/100 ($296.87) dollars, to be paid to Miss Hazel Duncan for services rendered to the McCreary County Board of Education in the Worley school of McCreary County, Kentucky, as teacher for seven months in 1933-34.

Ordered that said bills and resolutions be printed and referred.

The House took up for consideration from the Calendar, bill of the following title, viz.:

H. B. 238. An Act to repeal, amend and re-enact Sec.

1283a-5, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement.

Ordered that said bill be read the second time.

The Constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 87. AN ACT relating to the embezzlement, conversion, misappropriation and/or misapplication of the sinking fund in cities of the second class in the Commonwealth of Kentucky; providing penalties for the non-observance thereof and fixing upon city officers and employees civil liability therefor, and providing for the recovery of any and all amounts so embezzled, converted, misappropriated and/or misapplied.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any officers, agents and/or employees having charge, control and/or possession of the sinking fund or any portion thereof, or any of its property, money or evidences of property, or stocks, bonds, or other valuable thing of any city of the second class of the Commonwealth of Kentucky, who shall willfully embezzle, convert, misappropriate and/or misapply, or who, as a member of the General Council or Board of Commissioners, shall vote to so embezzle, convert, misappropriate and/or misapply such sinking fund, or any portion thereof, or any officer, agent or employee who could by refusal

to act have prevented said embezzlement, conversion, misappropriation and/or misapplication, whether said embezzlement, conversion, misappropriation and/or misapplication be for the purpose of paying, securing or liquidating commitments, and/or debts of said municipality or otherwise, except as provided in Section 3190, et seq., Carroll's Kentucky Statutes, 1936 Edition, shall be deemed guilty of a felony, and upon conviction therefor, shall be confined in the penitentiary of this State for not less than one (1), nor more than twenty (20) years, at the discretion of the jury, and such officers, agents, and/or employees so offending, or their sureties, shall jointly and severally be and they are hereby made personally liable for the amount of such embezzlement, conversion, misappropriation, and/or misapplication. It shall be the duty of the City Solicitor or other legal officer of the municipality to institute and prosecute to recovery, such civil actions, and if he fails to do so for six (6) months after he shall have knowledge of the same, any resident and taxpayer may institute the action or actions in his or her own name, and shall have one-half of the recovery. A civil recovery hereunder shall not militate against the criminal prosecution herein elsewhere provided.

§ 2. This act shall take effect and be in force from and after its passage.

Mr. Scheben offered the following amendment to said bill, viz.:

Amend H. B. 87 on page 1, section 1 by striking out all of section 1 and substituting in lieu therefor the following:

Section 1. Any officers, agents or employees having charge, control or possession of the sinking fund or any portion thereof, or any of its property, money or evidence of property, or stocks, bonds, or other valuable thing of any city of the second class of the Commonwealth of Kentucky, who shall willfully embezzle, convert, misappropriate or mis-

apply, or who, as a member of the General Council or Board of Commissioners, shall vote to so embezzle, convert, misappropriate or misapply such sinking fund, or any portions thereof, or any officer, agent or employee who could by refusal to act have prevented said embezzlement, conversion, misappropriation or misapplication, whether said embezzlement, conversion, misappropriation or misapplication be for the purpose of paying, securing or liquidating commitments, debts of said municipality or otherwise, except as provided in Sections 3190, 3191, 3192, 3193, 3194 and 3195, Carroll's Kentucky Statutes, 1936 Edition, shall be deemed guilty of a felony, and upon conviction therefor, shall be confined in the penitentiary of this state for not less than one (1) nor more than twenty (20) years, at the discretion of the jury, and such officers, agents, or employees so offending, or their sureties, shall jointly and severally be and they are hereby made personally liable for the amount of such embezzlement, conversion, misappropriation, or misapplication. It shall be the duty of the City Solicitor or other legal officer of the municipality to institute and prosecute to recovery, such civil actions, and if he fails to do so for six (6) months after he shall have knowledge of the same, any resident and taxpayer may institute the action or actions in his or her own name, and shall have one-half of the recovery. A civil recovery hereunder shall not militate against the criminal prosecution herein elsewhere provided.

Said amendment was agreed to.

Mr. Scheben moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Van Y. Greene	Kleber F. Price
H. T. Baker	Ralph C. Hamilton	Thomas Rigdon
Robert E. Barry	C. L. Hammons	W. H. Riley
Wm. T. Beard	T. H. Hickey	Joe E. Robinson
Alvis S. Bennett	Clyde S. Howard	Jack Savage
Sterling B. Blake	Chester Huffines	Carl Scheben
J. F. Bosworth	John M. Hunnicutt	Leon J. Shaikun
W. S. Brim	R. L. Jackson	Ray O. Shehan
C. J. Bronston	J. B. Jarboe, Jr.	Faust Y. Simpson
Gus A. Brooks	John S. Juett	Otto Smither
Randolph A. Brown	William K. King	E. T. Sparks
Haynes Carman	W. A. Lamkin, Jr.	G. C. Springate
Charles M. Carter	Robert E. Lee	J. Claude Stacy
S. B. Chrisman	Harvey D. Leonard	Ray J. Stengel
John Coulter	W. Paul Lyon	W. St. Clair Stuart
F. E. Daugherty	C. C. May	T. M. Swope
Stanley S. Dickson	Frank C. McElwain	Otis C. Thomas
Louis B. Dugan	E. Hayes McMakin	Erna E. Tyra
Forest C. Easley	Norris McPherson	J. Wood Vance
D. E. Edwards	J. Lee Moore	Walter R. Vansant
Harry W. Ennis	Joe T. Morgan	S. J. Wagner
Carlos Fallis	C. Homer Neikirk	Porter Wallace
T. P. Fitzpatrick	Carl D. Perkins	Harry F. Walters
Cecil Florence	B. W. Porter	Henry Ward
Eugene Gough	H. O. Porter	Otis White

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Mr. Scheben offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 87 by striking out all of the title and substituting in lieu therefor the following:

An Act relating to the embezzlement, conversion, misappropriation or misapplication of the sinking fund in cities of the second class in the Commonwealth of Kentucky; providing penalties for the non-observance thereof and fixing upon city officers and employees civil liability therefor, and providing for the recovery of any and all amounts so embezzled, converted, misappropriated or misapplied.

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Scheben moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Clerk produced and read the following communication, viz.:

Louisville, Kentucky
February 2, 1940

My Dear Mr. Perry:

It was with very deep feeling that read the resolutions passed by the House of Representatives and concurred in by the Senate, on the death of my husband. They were beautifully expressed, and a fine tribute to him as a man and public servant.

Will you please express my sincere appreciation to Mr. Frank Daugherty, Mr. Henry Ward, Mr. J. Lee Moore, Mr. Joe E. Robinson and Mr. Harry F. Walters.

Mrs. J. C. W. Beckham

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 41. AN ACT to authorize and enable cities of all classes to purchase, establish, acquire, maintain and operate

municipal recreational projects, including golf courses, tennis courts, swimming pools, bathing pools, bridle paths and other similar projects for public recreation; providing for the creation of a commission to manage said recreational projects; providing for the sale of revenue bonds payable solely out of the revenue derived from such municipal recreational projects; providing for the disposition of revenue from the operation of such projects, and for the payment of debts created in their establishment; exempting fees collected for admission to or use of such projects from taxation; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. As used in this act, the term "city" shall mean and include cities of all classes of the Commonwealth of Kentucky, whether organized under the general law or by special charter law; the term "project" shall mean and include golf courses, tennis courts, bridle paths, swimming pools, bathing pools, and other similar projects made available to the public for recreational purposes, but it shall not mean or include any recreational facility conducted in connection with the maintenance of public parks which have heretofore been or may hereafter be established by a city under the general law; and the term "commission" shall mean the body appointed by the city legislative board to manage any and all of such projects created under this act.

§ 2. Cities of all classes, whether organized under the general law or special charter law, and including such cities where the commission form of government or the city manager form of government has been adopted, are hereby authorized and empowered to purchase, establish, erect, acquire, accept, maintain and operate municipal recreational projects including golf courses, tennis courts, swimming pools, bridle paths

and other similar projects for public recreation, and all necessary club houses, bath houses, locker rooms, shower rooms, and other necessary appurtenances thereto, within or without the corporate limits of such cities, under the provisions of this Act, for the purpose of supplying such cities and the inhabitants thereof with suitable and safe recreational facilities.

§ 3. Any city purchasing, establishing, erecting, acquiring or accepting any recreational projects authorzied by this Act and desiring to maintain and operate such project or projects under the provisions hereof shall by ordinance provide for the appointment of a board of commissioners to operate, manage and control such project or projects, said board of commissioners to be known as the City Rrecreational Commission or by whatever title the city may designate in the ordinance under which it is created. Said board of commissioners shall continue and is hereby declared a body-politic and corporate with perpetual succession; and by whatever name or title the city shall designate in the ordinance under which it is created, said board may contract and be contracted with, sue and be sued, have and use a corporate seal and alter and renew the same at pleasure.

§ 4. The board which constitutes the city recreational commission shall consist of three (3) members to be appointed by the Mayor with the approval of a majority of the members of the legislative body of the city, and the members of said commission shall serve without compensation. Members of said commission first appointed under this Act shall be appointed to serve for terms as follows: One for a term of two (2) years; one for a term of (4) years; and one for a term of six (6) years. Upon the expiration of the first terms, successors shall be appointed for a term of six (6) years. The members of said commission shall be citizens and legal voters of the city, and if any member during the term of his office shall become a candidate for or be elected, or be appointed to

any public office he shall automatically vacate his membership from said commission and another person shall be appointed in his place; Provided, however, that this provision shall not prevent a member of said commission from serving as a member of any other appointive commission of the city, county, state or federal government.

Any member of said commission may be removed by the vote of three-fourths of the elected members of the city's legislative body, and vacancies shall be filled in the same manner as the members of said commission are first appointed under the provisions of this Act. The city may require each commissioner to execute a bond in the penal sum of $1,000.00 conditioned upon the faithful performance of his official duties. If said commissioners are required to execute bonds, such bonds shall be approved by the legislative body of the city, and the cost thereof may either be paid by the city or by the commission out of its revenue.

Said commission shall provide rules, regulations and by-laws for the management of said recreational project or projects, and out of the revenue derived from such project or projects it shall pay all operating expenses, provide for such repairs and additions as may be necessary to be made thereto, provide a sufficient reserve fund to insure and keep insured against fire and tornado the buildings and improvements erected for the purpose of providing such recreational project or projects, provide a fund for payment of any incidental or emergency expenses which may arise, and set up a fund to provide for the payment of any debts created in connection with the establishment and maintenance of such project or projects.

The commission shall have authority to levy and collect fees for the use of or admission to the project or projects herein authorized, and to expend or invest the income from such fees for the purposes above set forth.

§ 5. All properties, both real and personal, which the

city may accquire for the establishment and maintenance of such recreational project or projects shall be exempt from taxation to the same extent as other public property used for public purposes, and all fees charged or collected for the admission to or the use of such project or projects created under this Act shall also be exempt from taxation, it being specifically provided that such fees shall not be subject to the admission tax imposed upon places of amusement and/or entertainment under Section 4181F-2 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

§ 6. Any city which establishes a recreational project or projects provided by this Act is hereby authorized to acquire by gift, devise, bequest, grant, or purchase solely from the funds provided under the authority of this Act, such lands, structures, rights-of-way, franchises, easements or other interests in land necessary for the establishment and maintenance of such project or projects and upon such terms, prices and considerations as may be considered by the city to be reasonable and can be agreed upon between said city and the owner or owners thereof. Title to all property acquired for such purposes shall be taken in the name of the city.

§ 7. For the purpose of defraying the cost of purchasing, establishing, erecting and acquiring any recreational project or projects and necessary appurtenances thereto under the provisions of this act, any city may borrow money and issue negotiable bonds, which shall be payable solely out of the revenue from such project or projects. All bonds under the provisions of this Act may be issued bearing interest at the rate not exceeding six (6) per cent per annum, payable semi-annually, and shall be executed in such manner and be payable at such times, not exceeding thirty (30) years from the date of issuance, and at such place or places as the legislative body shall determine.

§ 8. Any and all such bonds shall have and are hereby declared to have in the hands of bona fide holders all the

qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. If the officers whose signatures or countersignatures appearing on the bonds or coupons shall cease to be such officers before delivery of such bonds, the signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the legislative body of the city shall deem for the best interests of such city, or any contract for the purchase or acquisition of any recreational project or projects may provide that payment thereof shall be made in such bonds. In no event shall any bonds be negotiated on a basis to yield more than six per cent interest per annum. Such bonds when issued shall be payable solely from the revenue funds derived from the operation of such recreational project or projects as authorized herein, and shall not constitute an indebtedness of such city within the meaning of the provisions and limitations of the Constitution of this commonwealth. It shall be plainly stated on the face of each bond that same has been issued under the provisions of this act and does not constitute an indebtedness of such city within the meaning of any constitutional provisions or limitations.

§ 9. All money received from any bonds issued pursuant hereto shall be applied solely to the purchase, establishment, erection and acquisition of such municipal recreational project or projects and necessary appurtenances thereto, provided such money may be used also to advance the payment of interest on bonds during the first three years following the date of such bonds. And provided further that the expenses of operation and maintenance for one month after the opening of such recreational project or projects may be advanced from these funds. There shall be and there is hereby created a statutory mortgage lien upon the recreational project or projects and necessary appurtenances thereto so acquired through the issuance of such bonds, to and in favor of the

holders of said bonds and each of them and to and in favor of the holders of the coupons of said bonds. The project or projects together with appurtenances thereto so purchased, established, erected or acquired shall remain subject to such statutory liens until the payment in full of the principal and interest of the bonds. Any holder of said bonds or of the coupons may, either at law, or in equity by suit, action, mandamus or other proceedings protect and enforce the statutory mortgage lien hereby conferred and may by suit or other proceedings enforce and compel performance of all duties required by this act, including the making and collecting of sufficient fees, the segregation of the income and revenue, and the application thereof.

§ 10. If there be any default in the payment of the principal or interest of any of said bonds, any court having jurisidiction of the action may appoint a receiver to administer said project or projects on behalf of the city, with power to charge and collect rates for the services rendered, use of or admission to such project or projects sufficient to provide for the payment of any bonds or obligations outstanding and for payment of the operating expenses and to apply the income and revenue in conformity with this act.

§ 11. At or before the issuance of such bonds the legislative body of the city shall, by ordinance, set aside and pledge the income and revenue of such project or projects into a separate and special fund to be used and applied in payment of the cost thereof and in the maintenance, operation and depreciation thereof. Such ordinance shall definitely fix the amount of revenue which shall be necessary and be so set aside and applied to the payment of the principal and interest of the bonds, and the proportion of the balance of such income and revenues which is to be set aside as a proper and adequate depreciation account, and the remaining portion of such balance shall be set aside for the reasonable and proper operation and maintenance thereof. The fees to be charged

for the use of or admission to such project or projects shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same becomes due and to provide for the operation and maintenance thereof an adequate depreciation account. Such fees shall be fixed and revised from time to time so as to produce these amounts. If any surplus shall be accumulated in the operating and maintenance fund, which shall be equal to the cost of maintaining and operating such project or projects during the remainder of the calendar, operating or fiscal year, the excess may be transferred at any time by the commission to the depreciation account to be used for any improvements or additions to such project or projects.

§ 12. The funds accumulating to the depreciation account shall be expended in balancing depreciations or in making new constructions or additions thereto. Any such accumulations may be invested as the commission may desginate, and if invested the income from such investments shall be carried into the depreciation account.

§ 13. The city may issue new bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure described by this act. Such new bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded.

Should the legislative body of the city find that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the procedure as herein described.

§ 14. Any city acquiring a recreational project or projects pursuant to the provisions of this act may, at the time of issuing of the bonds for such acquisition, provide for additional bonds for additions and permanent improvements to be placed in escrow and to be negotiated from time to time as such proceeds for that purpose may be necessary. Such

bonds when so negotiated shall have equal standing with bonds of the same issue.

In like manner, any city acquiring a municipal recreational project under the provisions hereof may provide for the addition to and improvement of such project by an additional issue or issues of bonds in the manner provided.

§ 15. This act shall be deemed to create an additional and alternate method for the acquisition, establishment and management of a municipal recreational project or projects by cities of all classes and shall not be deemed to include, amend, alter or repeal any other statute. No proceedings shall be required for the acquisition, establishment of management of any recreational project or projects hereunder or the issuance of bonds hereunder except as are prescribed in this act, any provision in the general laws of the commonwealth of Kentucky or the charter of any city to the contrary notwithstanding.

§ 16. Any bonds issued by a city pursuant to the provisions of this Act, or any obligations incurred for the establishment and maintenance of such recreational project or projects shall not constitute an obligation of the State, City or any other Governmental sub-division, agency or instrumentality thereof, but shall be payable only out of the properties, revenue and assets of such project or projects.

§ 17. If any section or provision of this act is for any reason illegal or is held invalid the remaining sections and parts thereof shall not be affected by such decision and shall remain in full force and effect.

§ 18. Whereas this act provides an additional means for the acquisition of recreational projects for the general welfare of the public not heretofore enjoyed by the municipalities of the Commonwealth of Kentucky, and whereas several municipalities desire to establish recreational projects immediately to the end that they may be available for the public

during the spring and summer months, now, therefore, an emergency is declared to exist, and this act shall become of full force and effect from and after its passage and approval by the Governor.

Mr. Ward offered the following amendment to said bill, viz.:

Amend H. B. 41 on page 4, section 5, line 9 and 10 by striking out the words and figures "Section 4181F-2 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision" and by inserting in lieu therefor the words and figures: "Section 2, of Chapter 15 of the Acts of the General Assembly of 1936, Third Extraordinary Session."

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Haynes Carman	T. P. Fitzpatrick
J. Everett Bach	Charles M. Carter	Cecil Florence
H. T. Baker	James W. Chapman	Eugene Gough
Robert E. Barry	S. B. Chrisman	Van Y. Greene
Wm. T. Beard	John Coulter	Ralph C. Hamilton
Alvis S. Bennett	F. E. Daugherty	T. H. Hickey
J. F. Bosworth	Stanley S. Dickson	Clyde S. Howard
W. S. Brim	Louis B. Dugan	Chester Huffines
Gus A Brooks	Forest C. Easley	J. B. Jarboe, Jr.
Randolph A. Brown	Carlos Fallis	John S. Juett

W. A. Lamkin, Jr.	Carl D. Perkins	G. C. Springate
Robert E. Lee	B. W. Porter	J. Claude Stacy
Harvey D. Leonard	H. O. Porter	Ray J. Stengel
Edward Leslie	Kleber F. Price	W. St. Clair Stuart
W. Paul Lyon	Thomas Rigdon	T. M. Swope
C. C. May	Joe E. Robinson	Otis C. Thomas
Frank C. McElwain	Jack Savage	Erna E. Tyra
E. Hayes McMakin	Carl Scheben	S. J. Wagner
Norris McPherson	Leon J. Shaikun	Porter Wallace
J. Lee Moore	Ray O. Shehan	Harry F. Walters
Joe T. Morgan	Faust Y. Simpson	Henry Ward
C. Homer Neikirk	E. T. Sparks	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 120. An Act to provide moral instruction for children in connection with the public schools.

Said bill is as follows, viz.:

"Whereas, in order that a free and independent people may enjoy to the fullest the blessings of liberty, happiness, and prosperity, it is necessary that people maintain a high standard of morals; and

"Whereas, the Preamble of the Constitution of Kentucky, states in part, that, we, as a people are, 'grateful to Almighty God for civil, political, and religious liberties'—; and

"Whereas, these civil, political and religious liberties are best secured and furthered by providing moral instruction

for pupils in connection with the Public Schools of the State; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

"§ 1. *Boards of Education may provide for moral instruction.* The Boards of Education of independent and county school districts are hereby authorized and empowered to provide for the moral instruction of pupils subject to the jurisdiction of such boards of education in the manner hereinafter provided in this act.

"§ 2. *Survey of religious preferences may be made.* The board of education of each school district may authorize a complete survey of the church affiliations, or preferences, of all the pupils attending the public schools within said district and ascertain therefrom those pupils who desire this instruction and have the consent of parent or guardian for said instruction as provided in this act.

"§ 3. *Time and place of instruction to be determined by boards of education.* On a day in each week, to be fixed by said boards of education, such pupils, as express desire for moral instruction may be excused for at least one hour, for the purpose of attending their respective places of worship, or some other suitable place, there to receive moral instruction in accordance with the religious faith or preference of the said pupils.

"§ 4. *Rules and regulations.* Each school board is authorized to adopt rules and regulations for carrying into effect the provisions of this act and to make such arrangements with the respective persons in charge of the moral instruction as the said board deems necessary and advisable.

"§ 5. *Credit for time spent in moral instruction.* Pupils taking advantage of the instruction as provided in this act and attending said classes for normal instruction therein at the time specified and for the period fixed shall be credited

with the time so spent as if such pupils had been in actual attendance in school.

"§ 6. *Pupils to remain in school or be present in the aforesaid classes.* Any pupil who for any reason fails to take advantage of the aforesaid moral instruction shall remain in school during the time when such instruction is being given as herein provided, but such child shall not receive any educational advantage over children receiving such instruction.

"§ 7. *Expense.* The aforesaid moral instruction shall be given without expense to any board of education, beyond the cost of the original survey, hereinbefore mentioned.

"§ 8. *Intent of act.* It is hereby declared to be the intent of the General Assembly of Kentucky that this act shall be permissive and not mandatory."

Mr. Niekirk offered the following amendment to said bill, viz.:

1. Amend H. B. 120 on page 2, section 2, line 6 by striking out the word "instructoin" and insert in lieu therefor the word "instruction".

2. Amend H. B. 120 on page 1, section 1, line 3 by striking out the word "provided" and insert in lieu therefor the word "provide".

3. Amend H. B. 120 on page 3, line 3 by striking out the word "origiinal" and insert the word "original".

Said amendments were each and severally agreed to.

Mr. Neikirk moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Alvis S. Bennett	Robert E. Lee	Faust Y. Simpson
Sterling B. Blake	Edward Leslie	Otto Smither
W. S. Brim	W. Paul Lyon	E. T. Sparks
Haynes Carman	Joe T. Morgan	Otis C. Thomas
S. B. Chrisman	C. Homer Neikirk	Walter R. Vansant
Forest C. Easley	Carl D. Perkins	Porter Wallace
Cecil Florence	H. O. Porter	Henry Ward
T. H. Hickey	Ray O. Shehan	—23

Those who voted in the negative were—

C. W. Anderson, Jr.	T. P. Fitzpatrick	B. W. Porter
H. T. Baker	Eugene Gough	Kleber F. Price
Robert E. Barry	Van Y. Greene	Thomas Rigdon
Wm. T. Beard	Ralph C. Hamilton	Joe E. Robinson
C. J. Bronston	Clyde S. Howard	Jack Savage
Randolph A. Brown	John M. Hunnicutt	Carl Scheben
John Coulter	R. L. Jackson	Leon J. Shaikun
F. E. Daugherty	Harvey D. Leonard	G. C. Springate
Stanley S. Dickson	Frank C. McElwain	T. M. Swope
Louis B. Dugan	E. Hayes McMakin	S. J. Wagner
D. E. Edwards	Norris McPherson	Otis White
Carlos Fallis	J. Lee Moore	—35

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a resolution entitled:

H. Res. 1. Resolution providing for a contingent fund for the clerk of the Senate and the clerk of the House.

Thereupon all other business was suspended, said resolution was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said resolution to the Senate.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 14. Resolution to provide for ten copies each of Carroll's 1936 Kentucky Statutes and Baldwin's 1939 Kentucky Statute Service for the use of the General Assembly, and providing for the payment of same.

Said resolution is as follows, viz.:

WHEREAS, it is necessary to expedite the business of the General Assembly of Kentucky, that the members thereof have free access to the Statutes and Service of the Commonwealth for their use and benefit during the present session of the General Assembly, Therefore

Be it Resolved by the House of Representatives, the Senate concurring therein:

§ 1. That the Clerk of the House of Representatives be, and he is hereby instructed to procure ten copies each of the One Thousand Nine Hundred and Thirty-six (1936) Revision of Carroll's Kentucky Statutes, and the One Thousand Nine Hundred and thirty-nine (1939) Edition of Baldwin's Kentucky Statute Service, for the use and benefit of the members of the General Assembly, and the Committees thereof. The Clerk of the House shall present the bill for same to the

Finance Department—Division of Accounts and Control, who is hereby directed to draw his warrant for the payment of same upon the Treasurer of the Commonwealth of Kentucky, payable out of the Legislative Expense Fund.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	F. E. Daugherty	R. L. Jackson
J. Everett Bach	Louis B. Dugan	J. B. Jarboe, Jr.
H. T. Baker	D. E. Edwards	John S. Juett
Robert E. Barry	Harry W. Ennis	W. A. Lamkin, Jr.
Wm. T. Beard	Carlos Fallis	Robert E. Lee
Alvis S. Bennett	T. P. Fitzpatrick	Harvey D. Leonard
Sterling B. Blake	Cecil Florence	Edward Leslie
J. F. Bosworth	Eugene Gough	W. Paul Lyon
C. J. Bronston	Van Y. Greene	C. C. May
Gus A Brooks	Ralph C. Hamilton	Frank C. McElwain
Randolph A. Brown	C. L. Hammons	Norris McPherson
Haynes Carman	T. H. Hickey	J. Lee Moore
Charles M. Carter	Clyde S. Howard	Joe T. Morgan
S. B. Chrisman	Chester Huffines	C. Homer Neikirk
John Coulter	John M. Hunnicutt	Carl D. Perkins

B. W. Porter	Ray O. Shehan	Otis C. Thomas
H. O. Porter	Otto Smither	Erna E. Tyra
Kleber F. Price	E. T. Sparks	Walter R. Vansant
Thomas Rigdon	G. C. Springate	S. J. Wagner
Joe E. Robinson	J. Claude Stacy	Porter Wallace
Jack Savage	Ray J. Stengel	Harry F. Walters
Carl Scheben	W. St. Clair Stuart	Otis White
Leon J. Shaikun	T. M. Swope	—68

Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Bennett moved that the House do now take up for immediate consideration from the Clerk's desk a bill entitled:

H. B. 43. An Act to provide for the correction of omissions, irregularities, errors or mistakes of election officers.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That if it appears to any Board of County Election Commissioners in determining the person or persons receiving the greatest number of votes cast for the several offices voted for any election, that any ballots have not been properly signed, or any other omission, irregularity, error or mistake occurred in the returns of the election officers in any precinct, which can be cured by amending or correcting same, it shall be the duty of said Board of Election Commissioners

to immediately summons the said election officers or such of them as may be requisite, to forthwith appear before said Board for the purpose of correcting such omissions, irregularities, errors or mistakes so that the law may be fully complied with and the apparent purpose of all voters made effective.

§ 2. The summons may be executed by any sheriff, constable or qualified voter, who shall receive fifty cents (50c) for each person summoned, to be paid by the county or city in which such election was held.

If any election officer refuses or fails to obey such summons, the Election Commission shall report such failure or refusal to the Circuit Judge of the District in which the county is located, who shall compel the attendance of such election officer or officers. If the Circuit Judge of said District is for any reason disqualified, the board shall apply to the nearest available Circuit Judge for relief.

All laws and parts of laws in conflict herewith are hereby repealed.

Mr. J. Lee Moore moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Florence moved that said bill be laid on the table.

Said motion was agreed to.

And so said bill was tabled.

Mr. J. Lee Moore moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, FEBRUARY 6, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Eugene Gough	Thomas Rigdon
J. Everett Bach	Van Y. Greene	W. H. Riley
H. T. Baker	Ralph C. Hamilton	Joe E. Robinson
Robert E. Barry	C. L. Hammons	Lyman Roll
Wm. T. Beard	T. H. Hickey	Jack Savage
Alvis S. Bennett	Clyde S. Howard	Carl Scheben
Sterling B. Blake	Chester Huffines	Leon J. Shaikun
Douglas T. Bolling	John M. Hunnicutt	Ray O. Shehan
J. F. Bosworth	R. L. Jackson	Faust Y. Simpson
W. S. Brim	J. B. Jarboe, Jr.	Bruce Sloan
C. J. Bronston	John S. Juett	Otto Smither
Gus A. Brooks	William K. King	E. T. Sparks
Randolph A. Brown	W. A. Lamkin, Jr.	G. C. Springate
Haynes Carman	Robert E. Lee	J. Claude Stacy
James W. Chapman	Harvey D. Leonard	Ray J. Stengel
S. B. Chrisman	Edward Leslie	Henry Stewart
John Coulter	W. Paul Lyon	W. St. Clair Stuart
John H. Cox	C. C. May	T. M. Swope
Pink G. Curd	T. B. McConnell	Otis C. Thomas
F. E. Daugherty	Frank C. McElwain	Erna E. Tyra
Stanley S. Dickson	E. Hayes McMakin	J. Wood Vance
Louis B. Dugan	Norris McPherson	Walter R. Vansant
Forest C. Easley	John B. Mollette	S. J. Wagner
D. E. Edwards	J. Lee Moore	Porter Wallace
Harry W. Ennis	Joe T. Morgan	Harry F. Walters
R. R. Ernst	C. Homer Neikirk	Henry Ward
Carlos Fallis	Carl D. Perkins	Otis White
T. P. Fitzpatrick	B. W. Porter	James H. Woods
Cecil Florence	Kleber F. Price	
Wayne Freeman	Hobart Rayburn	—88

Mr. Howard moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Shaikun moved that the privilege of the floor be extended to Messrs. Shanklin and Jerry Rosenberg of Louisville, Kentucky.

Said motion was agreed to.

Mr. Riley moved that the privilege of the floor be extended to Messrs. J. D. Martin of Lexington, Kentucky and W. J. Steel, E. B. Anderson and S. J. Rogers of Owensboro, Kentucky.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Messrs. W. F. Gardner and H. L. Clay of Louisville, Kentucky.

Said motion was agreed to.

The Clerk read to the House the following telegram, viz.:

Dr. B. F. Shields, Speaker of the House.

Auto accident on way to Frankfort this morning. Wife injured. She will undergo opeartion in morning Feb. 6th. Please excuse my absence from session for a few days until my wife is out of danger.

W. Q. Daniel
Pendleton & Bracken Counties.

Mr. Ward moved that a leave of absence be granted to Mr. Daniel.

Said motion was agreed to.

Mr. Shehan moved that a leave of absence be extended to Mr. Carter.

Said motion was agreed to.

Mr. Rigdon of the Committee on Claims to which the same had been recommitted, reported resolutions of the following titles, viz.:

H. Res. 9. Resolution appropriating and authorizing the payment of $654.44 to Joe Holcomb.

H. Res. 7. Resolution authorizing Malcolm Godsey, Jr., by his statutory guardian, to sue the Commonwealth, etc.

With a Committee amendment thereto.

H. Res. 8. Resolution authorizing Zill Whitney to sue the Commonwealth and the State Highway Commission.

With a Committee amendment thereto.

H. Res. 10. Resolution authorizing James V. Chaney to sue the Commonwealth of Kentucky, etc.

With a Committee Amendment thereto.

H. Res. 11. Resolution providing payment of doctors and hospital bills of Alford Lawson.

With a Committee Amendment thereto.

H. Res. 12. Resolution authorizing John Cox to sue the Commonwealth.

With a Committee Amendment thereto.

With the expression of opinion that said resolutions ought to pass, as amended.

Ordered that said resolutions take their place in the Orders of the Day.

Committees to which the same had been previously referred, reported bills and resolutions of the following titles, viz.:

By Mr. Vance of the Committee on Agriculture No. 1.

H. B. 80. An Act to declare the necessity of creating governmental subdivisions of the State, to be known as "Soil Conservation", etc.

With Committee Amendments thereto.

By Mr. McPherson of the Committee on Motor Transportation.

H. B. 18. An Act regulating the relation between owners and operators of motor vehicles and certain passengers therein.

Without an expression of opinion.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 210. An Act repealing and re-enacting Sec. 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding officers in primary elections.

H. B. 211. An Act repealing and re-enacting Sec. 1550-6, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, governing nominating papers, etc.

H. B. 212. An Act repealing and re-enacting Sec. 1550-23, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding the appointment of challengers and inspectors in primary elections.

By Mr. Greene of the Committee on Miscellaneous Affairs.

H. B. 221. An Act relating to alimony, and amending Section 2122 of Carroll's Kentucky Statutes, 1936 Edition.

Without an expression of opinion.

With the expression of opinion that said bills ought to pass, with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 101. An Act to provide for the sharing of primary and general election expenses by state and counties, and providing for the repeal of conflicting Acts.

H. B. 239. An Act repealing and re-enacting Sec. 1697, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, by allowing in addition to the exemptions therein, one automobile, etc.

By Mr. Greene of the Committee on Miscellaneous Affairs.

H. B. 4. An Act creating a Monopoly Board regulating the sale of musical compositions within the Commonwealth of Kentucky.

With the expression of opinion that said last named bills ought not to pass.

No motion having been made to advance said bills to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken by the

House, it was ordered that said bills be not read at length the first time and so said bills were rejected.

Mr. Joe E. Robinson moved that the House do now recess until the hour of one-fifteen o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-fifteen o'clock having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Joe E. Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. King moved that the privilege of the floor be extended to Mr. Willet Gruber of Scott county.

Said motion was agreed to.

Mr. Daugherty moved that the privilege of the floor be extended to Messrs. Andrew Nichols, Alfred Wathen, John Smith and George Hayden.

Said motion was agreed to.

Mr. Anderson moved that the Rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon the following bills and resolutions were introduced, viz.:

By Mr. Carter.

H. B. 320. An Act to amend Section 883i-14 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 883i-14 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Every licensee hereunder may lend any sum of money not exceeding three hundred dollars ($300) in amount and may charge, contract for, and receive thereon interest at a rate not exceeding one and one-half per centum (1½%) per month on any part of the unpaid principal balance of the loan.

(2) No amount whatsoever shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. The maximum interest permitted on loans made under this Act shall be computed on the basis of the number of days actually elapsed and for the purpose of such computations a month shall be any period of thirty consecutive days. In addition to the interest herein provided for no further or other charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for, or received, except however, the lawful fees, if any, actually and necessarily paid out by the licensee to any public official for filing or recording in any public office any instrument securing the loan.

(3) No person who is a licensee under this Act shall induce or permit any borrower or borrowers to split up or divide any loan or loans, nor permit any one borrower or any husband or wife individually or together to become indebted to him under more than one contract of loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of three hundred dollars ($300) or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subter-

fuge, or pretense whatsoever, any interest, or consideration therefor greater than six per centum (6%) per annum.

§ 2. This Act shall not affect contracts made prior to its passage.

By Mr. J. Lee Moore

H. B. 321. An Act relating to all classes of property actually or presumptively subject to escheat; providing the terms upon which presumption of abandonment of property and presumption of the death of persons shall be determined; providing how and when said property may be escheated to the Commonwealth of Kentucky; providing for the reduction of all such property to cash, transferring the possession of same to the Treasurer of Kentucky; providing how any person who is legally entitled thereto may recover same from the Treasurer; providing that any person transferring property to the Commonwealth as required by this Act shall be relieved of liability to the owner thereof or reimbursed for any liability or damage incurred by complying with this Act; defining certain words; providing for reports and examination of records; providing for the administration and enforcement of this Act, and for an Assistant Attorney General as incident thereto; providing fines, penalties, and imprisonment for failure to comply with this Act; providing that if any provision of this Act shall be held unconstitutional that it is the Legislative intent that all other provisions thereof shall remain in force and effect; repealing sections 1610, 1612, 1613, 1614, 1615, and 1617 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; repealing all Acts and parts of Acts in conflict with this Act; repealing Chapter 168, Acts of the Regular Session of the 1938 General Assembly of the Commonwealth of Kentucky; and repealing, amending and reenacting sections 1606, 1607, 1608, and 1609 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sections 1610, 1612, 1613, 1614, 1615, and 1617 of Carroll's Kentucky Statutes, 1936 edition, and Chapter 168, Acts of the Regular Session of the 1938 General Assembly be, and the same are hereby repealed.

§ 2. Whenever used in this Act, unless the context requires otherwise, the word "person" shall mean and include any individual, state and national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Whenever used in this Act, unless the context requires otherwise, the word "claim" shall mean to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved.

§ 3. That section 1606 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted so that when amended and re-enacted it shall read as follows:

That part of estates or property having a situs in this Commonwealth, not disposed of by will of persons who have died, or may hereafter die without heirs or distributees entitled to the same; or which have been or may hereafter be devised to any person, or any heir or distributee or devisee of such person or of the testator, who has not claimed the same or shall not claim the same within eight (8) years after such death, shall vest in the Commonwealth, subject to all legal and equitable demands on same. All such property shall be liquidated and the proceeds thereof, less costs, fees, and expenses incidental to all legal proceedings of such liquidation shall be paid to the Department of Revenue. Any estates or property except a perfect title to a corporeal hereditament, which estates or property have been abandoned by the owner

thereof, shall also vest in the Commonwealth, subject to all legal and equitable demands on same. All such property shall be liquidated and the proceeds thereof, less costs, fees, and expenses incidental to all legal proceedings of such liquidation shall be paid to the Department of Revenue.

§ 4. That section 1607 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted so that when amended and re-enacted it shall read as follows:

The personal representatives of persons, whose estates or a part of whose estates are not distributed by will, and who died without heirs or distributees entitled to same, shall settle their accounts within one (1) year after qualifying as such and pay over to the Department of Revenue the proceeds of all personal estate, first deducting the proper legal liabilities of the estate.

(1) If the whole personal estate cannot be settled and the accounts closed within one (1) year, the settlement as far as practicable, shall then be made and the proceeds paid over to the Department of Revenue, and the residue shall be so settled and paid over as soon thereafter as can be properly done.

(2) The personal representative shall take possession of the real estate of such decedent not disposed of by his will, and rent out the same from year to year until it is otherwise legally disposed of, and pay the net proceeds to the Department of Revenue.

(3) The personal representative shall also make out and transmit to the Department of Revenue a description of the quantity, quality, and estimated value of such real estate and its probable annual profits.

§ 5. That section 1608 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

If any devisee or his heirs, devisee or distributee, or any heir or distributee of a testator has failed or shall hereafter

fail for eight (8) years to claim his legacy the personal representative of such testator or other person having the same in possession shall, after deducting the legal liabilities thereon, pay and deliver over such legacy, whether the same be real or personal estate, and the net profits thereof to the Department of Revenue.

§ 6. That section 1609 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

When any person owning property or estates having a situs in this Commonwealth is not known to be living for seven (7) successive years, and neither said owner, his heirs, devisees, or distributees can be located or proved to have been living for seven (7) successive years, such person shall be presumed to have died without heirs, devisees, or distributees, and both his real and personal estate shall be liquidated and the proceeds, less costs incident to the liquidation and any legal proceedings, and less the liabilities which have been properly claimed and approved against same, shall be paid to the Department of Revenue.

§ 7. When the owner or owners (whether such ownerships be legal, beneficial, equitable, or otherwise) of deposits payable on demand in any bank or trust company (either state or national) within this Commonwealth, have not or shall not within ten (10) successive years next preceding the date as of which reports are required to be made by section 8 of this Act, (a) negotiated in writing with the bank or trust company in respect thereto, or (b) been credited with interest on the passbook or certificate of deposit on his or their request, or (c) had a transfer, disposition of interest, or other transaction noted of record in the books or records of such bank or trust company, or (d) increased or decreased the amount of the deposit, such deposit and the interest thereon shall be presumed abandoned.

When the owner or owners (whether such ownerships

be legal, beneficial, equitable, or otherwise) of deposits other than those payable on demand in any bank or trust company (either state or national) within this Commonwealth, have not or shall not within twenty-five (25) successive years next preceding the date as of which reports are required to be made by section 8 of this Act, (a) negotiated in writing with bank or trust company in respect thereto, or (b) been credited with interest on the passbook or certificate of deposit on his or their request, or (c) had a transfer, disposition of interest, or other transaction noted of record in the books or records of such bank or trust company, or (d) increased or decreased the amount of the deposit during said period, such deposits and the interest thereon shall be presumed abandoned.

All deposits of money, stocks, bonds, or other credits of any kind whatsoever made to secure payment for services rendered or to be rendered, or to guarantee the performance of services or duties, or to protect against damage or harm and the increments thereof, shall be presumed abandoned unless claimed by the person entitled thereto within ten (10) years after the occurrence of such event as would obligate the holder or depository to return the same or the equivalent thereof to the proper owner or claimant.

All dividends, stocks, and bonds and the increments thereof, all monies and credits and the increments thereof, all claims for monies and credits and the increments thereof, and all intangible personal estate or property whatsoever and the increments thereof, held within this Commonwealth by any person for the benefit of another person shall be presumed abandoned unless claimed by the beneficiary or person entitled thereto within ten (10) years from the time the holder, trustee, debtor, or other responsible person became obligated to return the same or the equivalent thereof to the proper owner or claimant. If the increments or benefits payable on any instrument are not claimed within the time and manner prescribed in this paragraph, the instruments or

evidence of the debt or obligation shall likewise be presumed abandoned.

All estate or property paid into any court of this Commonwealth for distribution and the increments thereof shall be presumed abandoned if not claimed within five (5) years after the estate was so paid into court, or as soon after said five (5) year period as all claims filed in connection therewith shall have been disallowed or settled by the court.

None of the provisions of this Act shall apply to bonds of counties, cities, school districts, or other tax levying subdivisions of this Commonwealth.

§ 8. It shall be the duty of all state and national banks, trust companies, or other persons, and courts of this Commonwealth or the agents thereof, whether holding estates or property as bailee, depository, debtor, trustee executor, liquidator, administrator, distributor, receiver, or other capacity coming within the purview of section 7 of this Act, to report annually to the Department of Revenue as of July 1, all property held by them declared by this Act now to be presumed abandoned, and all property which shall hereafter become presumed abandoned under the provisions of this Act. The report shall be filed in the offices of the Department of Revenue in Frankfort on or before September 1 of each year for the preceding July 1, and shall give the name of the owner, his last known address, the amount and kind of property, and such other information as the Department of Revenue may require for the administration of this Act. Such person or court as may have made report of any estate or property presumed abandoned, as required in this Act, shall, within four (4) months after July 1, turn over to the Department of Revenue all property so reported except that if the person making such report, or any other person or persons are able to prove by competent evidence on hearing before the Commissioner of Revenue that the owner or person entitled to the property has subsequently within said four (4)

months transacted business resulting in writing of record in the books of the person or court making the report, which shows the owner or person entitled to the estate or property has knowledge thereof and still claims his legal or equitable right thereto or has by other competent evidence clearly manifested such knowledge or claim, it shall not be the duty of the person or court making such report or in possession of such property to surrender it to the Department of Revenue.

§ 9. Any intangible personal estate or property required by sections 7 and 8 of this Act to be liquidated so as to permit payment thereof to the Department of Revenue, shall be surrendered to the Department of Revenue and sold by the Department of Revenue at public sale at Frankfort, or in such other city in the Commonwealth as may in its judgment afford the most favorable market for the particular property involved, to the highest bidder; provided that it may decline the highest bid and reoffer the property for sale if it deems the price offered insufficient. Such sale shall be advertised at least one week before the date of the sale in a newspaper of general bona fide circulation in the county where said property was found or abandoned, and in the county where the sale is to be made, and the sale shall be held at the courthouse door.

§ 10. Any person who shall transfer to the Department of Revenue, property to which the Commonwealth is entitled under the provisions of this Act, is hereby relieved of any liability to the owner of such property arising from such transfer; however, if any such person cannot be relieved of such liability by the provisions of this section, the Commonwealth shall reimburse such person for all liability to the owner of the property or estate or damage incurred by reason of compliance with the provisions of this Act.

§ 11. Any person claiming an interest in estates or property paid or surrendered to the Commonwealth in ac-

cordance with the provisions of sections 3, 4, 5, or 6 of this Act, who was not actually served with notice and who did not appear, and whose claim was not considered during the action or at the proceedings which resulted in the payment of same to the Commonwealth, may within five (5) years after the judgment file his claim thereto with the Department of Revenue.

Any person claiming an interest in estates or property paid or surrendered to the Commonwealth in accordance with sections 7, 8, or 9 of this Act, which was not subsequently adjudged under the procedure set out in section 16 of this Act to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee, or other person entitled under the laws of this Commonwealth relating to wills, descent and distribution, to take the legal or equitable title to such estate or property, may file his claim thereto at any time after same was paid to this Commonwealth.

The claimant shall within fifteen (15) days after filing any claim permitted under this section publish notice of such claim in a newspaper of general bona fide circulation in the county in which the property was held before being transferred to the Commonwealth as herein provided. If there be no such newspaper, the claimant shall post such notice at the courthouse door and in three other conspicuous places in said county, and shall file proof of such publication or posted notice with the Department of Revenue. No such claim shall be allowed until fifteen (15) days after proof of such notice is received by the Department of Revenue at its offices in Frankfort.

§ 12. It shall be the duty of the Commissioner of Revenue to consider any claim and/or defense permitted to be filed before it and to hear evidence in respect thereto. If the claimant establishes his claim, the Commissioner of Revenue shall, when the time for appeal or further legal procedure herein provided has expired, authorize payment to

him of a sum equal to the same amount which was paid into the Treasury in compliance with this Act. The decision shall be in writing and shall state the substance of the evidence heard by the Commissioner of Revenue if a transcript thereof be not kept and such decision shall be a matter of public record.

Any person, petitioner, or claimant dissatisfied with the decision of the Commissioner of Revenue may within sixty (60) days, appeal from such decision to the Franklin Circuit Court or file an action in said court to vacate such decision. In either event the proceedings shall be de novo, and no transcript of the record before the Commissioner of Revenue shall be required to be kept unless requested by the claimant. In any such proceeding before the Franklin Circuit Court, the Commissioner of Revenue shall be made a party defendant, and all other persons required by law to be made parties defendant or plaintiff and served with actual or constructive notice in rem or quasi in rem actions shall be so treated. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Kentucky Court of Appeals in the manner now generally provided by law, but such proceeding must be commenced within sixty (60) days after the judgment. However, the Commonwealth shall in no event be required to make a supersedeas bond. The provisions of this section which relate to the decision of the Commissioner of Revenue and appeals therefrom shall also apply to a decision of the Commissioner rendered under authority of section 8 of this Act requiring payment to the Department of Revenue over the protest of the holder or claimant of the property.

§ 13. Whenever any estate or property, which may be escheated under the provisions of this Act by reason of actual abandonment, or death and for presumption of death of the owner without an heir, distributee, devisee or other person entitled to take the legal or equitable title to such estate or property under the laws of this Commonwealth relating to

wills, or descent and distribution, has or shall hereafter be deposited with, or in the custody of, or under the control of any court of the United States in and for any district within this Commonwealth, or in the custody of any depository, clerk or other officer of such court, or shall have been surrendered by such court or its officers to the United States Treasury, the circuit court of this Commonwealth in any county in which such court of the United States sits, shall have jurisdiction to ascertain whether an escheat has occurred, and to enter a judgment of escheat in favor of the Commonwealth. Provided, however, this section shall not be construed as authorizing a judgment to require such courts, officers, agents, or depositories to pay or surrender such funds to the Commonwealth on a presumption of abandonment as provided in sections 7 and 8 of this Act.

§ 14. To aid in the enforcement and administration of the provisions of this Act, the Attorney General shall, with the approval of the Governor, appoint an additional Assistant Attorney General, having at least the qualifications of the Sixth Assistant Attorney General, and assign him to the Department of Revenue. It shall be the special duty of such Assistant Attorney General to represent the Commonwealth at the hearings required by this Act to be held before the Commissioner of Revenue to consider claims filed pursuant to section 11 of this Act; to advise the Department of Revenue, county attorneys, and all other inquiries, with respect to questions arising under the provisions of this Act; to aid in the prosecution of all other actions or proceedings authorized by this Act when so directed by the Commissioner of Revenue or the Attorney General; and to perform such other duties as are imposed on him by any provision of this Act. Provided, however, his opinions shall be subject to the approval of the Attorney General in the same manner as is such work of other Assistant Attorneys General now established by law, and he shall also have the other ordinary powers and duties of an Assistant Attorney General.

He shall receive a salary not exceeding four thousand dollars ($4,000) a year, to be fixed by the Attorney General and the Commissioner of Revenue as provided by law, which shall be paid on authorization of the Commissioner of Revenue in the same manner as employees of the Departmentof Revenue are generally paid.

§ 15. All legal proceedings to enforce sections 3, 4, 5, and 6 of this Act shall be instituted on the relation of the Commissioner of Revenue.

It shall be the duty of the county attorney of a county in which any estate or property is located, coming within the purview of sections 3, 4, 5, or 6 of this Act, to institute such legal proceedings as are necessary to enforce the provisions of said sections and to recover such sums as are due the Commonwealth thereunder. The petition and all pleadings necessary to be filed in such proceedings shall be on the relation of the Commissioner of Revenue and shall be sent to the Commissioner of Revenue for his signature and approval. The petition shall be accompanied by an affidavit of the county attorney, stating the facts on which it is based. For all other pleadings, there shall be a statement by the county attorney of the reason for the particular pleading.

On any action or proceeding by a county attorney under the provisions of this Act, it shall be the duty of the Assistant Attorney General, provided for in section 14 of this Act, to offer assistance and suggestions to the county attorney in the preparation of the petition or any pleadings, and to revise and correct same as he may deem necessary, subject to the ultimate approval of the Commissioner of Revenue, when he is required to sign same.

If the estate or property of a person coming within the purview of sections 3, 4, 5, or 6 of this Act is located in two or more counties, all such property may be included in one action or proceeding; provided, however, that the county attorneys of all counties in which such property is located may

join in the prosecution of the action or proceeding, and their fees shall be determined by the amount of money derived from the property located within their respective counties when possible to determine such figure; otherwise, the courts shall determine their fees by equitable apportionment in accordance with the value of the property which is located in their respective counties.

If the county attorney performs all the duties imposed upon him by this Act relating to enforcement of the provisions of sections 3, 4, 5, or 6, he shall be entitled to a fee of fifteen per cent (15%) of any sum recovered in such proceeding, except that the county attorney's fee shall be limited to five per cent (5%) on intangible property recovered in excess of one thousand dollars ($1,000).

In the event that a county attorney declines to perform the duties imposed upon him by this Act, they may be performed by the Commissioner of Revenue and the county attorney shall not be entitled to any fee. The Commissioner may, when he deems it to the best interest of the Commonwealth, institute any action authorized by this Act to be brought by the county attorney, or join the county attorney in the active prosecution of any such action. The county attorney shall be entitled to his fee in either instance if he does his duty.

Pending the outcome of an action or court proceeding, the court may make such disposition of the land or tangible personal property involved as may seem best from the standpoints of use, rents, interest, and profits. In the event the use of the property is given to the claimant by the court, such claimant shall be held accountable for returns and profits arising from such use, if the Commonwealth be successful in such proceeding.

§ 16. In the event any person refuses to pay or surrender voluntarily intangible estate or property to the Department of Revenue, as provided in sections 7 or 8 of this

Act, or if the agent of any court refuses so to do, a proceeding may be brought on the relation of the Commissioner of Revenue as an equity action in a court of competent jurisdiction to force such payment or surrender of property, and all property subject to said sections 7 and 8 may be listed and included in a single action.

If intangible estates or property are turned over to the Department of Revenue on presumption of abandonment, in accordance with sections 7, 8, or 9 of this Act, the Commissioner of Revenue may at any subsequent time institute proceedings in a court of competent jurisdiction to establish conclusively that such estate or property was actually abandoned, or that the owner thereof is dead and there are no heirs, devisees, distributees, or any other persons entitled to succeed to the title of same.

In the event a particular person or persons may have property coming within the purview of sections 3, 4, 5, of 6 of this Act, and also sections 7 or 8 of this Act, the actions herein required to be brought by the county attorney and the Commissioner of Revenue may be joined, but joinder is not required, and if separate actions shall be brought, they shall not be considered as coming within the rule against splitting a cause of action. The county attorney shall not be charged with the duty of enforcing sections 7, 8, 9, and 12 of this Act.

The procedure for any and all actions or proceedings permitted or necessary under this Act to be filed in a court of competent jurisdiction shall be the same as that now provided by Carroll's Kentucky Civil Code of Practice, unless provided differently herein, except that all such actions or proceedings shall be filed as equity actions.

§ 17. All money received by the Department of Revenue under the provisions of this Act shall be deposited with the State Treasury and credited to the account of the General Expenditure Fund; provided, however, that ten per cent (10%) of such sum so received during the fiscal year begin-

ning July 1, 1940, and ten per cent (10%) of such sum so received during the fiscal year beginning July 1, 1941, shall be added to and made a part of the appropriation available to the Department of Revenue for the respective fiscal years. After June 30, 1942, the legislature shall make provision for the administration of this Act in the regular budgetary appropriation made for the Department. All the expense necessary and required to be paid by the Commonwealth in administering and enforcing this Act shall be paid out of the funds available to the Department of Revenue, and such expenses shall be paid in the same manner as other claims upon the Commonwealth are paid.

The county attorney shall act as agent of the Department of Revenue for the collection of all judgments recovered in actions prosecuted by him under the provisions of this Act and he shall deduct the fee allowed him for his services prformed pursuant to this Act, and promptly remit such collections to the Department of Revenue, with such information relating thereto as the Department may require.

§ 18. Any action permitted by this Act to be brought by the Commonwealth must be brought within fifteen (15) years from the effective date of this Act or from the time when the cause of actions accrued, whichever is the later date.

§ 19. Any person under disability affected by this Act shall have five (5) years after the disability is removed in which to take any action or procedure or make any defense allowed to one sui juris.

§ 20. The Department of Revenue, through its employees, is also authorized to examine all records of state and national banks or trust companies, corporations, companies, partnerships, agencies, and persons where there is reason to believe that there has been or is a failure to report property which should be reported under the provisions of this Act.

The Commissioner of Revenue shall have authority to promulgate such reasonable rules and regulations as are necessary for the enforcement of this Act, and to govern hearings provided in this Act to be held before him. Provided, however, he may delegate in writing to any regular employee of the Department of Revenue authority to perform any of the duties imposed on him by this Act excepting the promulgation of rules and regulations.

Any person, or representative thereof refusing to make any report as required by this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars ($50) or more than two hundred dollars ($200), or imprisoned not less than thirty (30) days or more than six (6) months, or both so fined and imprisoned. The Department of Revenue shall also have authority, as herein provided, to require such reports, or the surrender of such property by civil action, including an action in the nature of a bill of discovery, in which case such person shall be required to pay a penalty equal to ten per cent (10%) of all amounts which he may ultimately be required to surrender, but in no event shall said penalty exceed five hundred dollars ($500).

Any person bona fide contesting the applicability of this Act to him may be relieved of the threat of any fine or penalty by posting a compliance bond in an amount and of surety sufficient to the court.

§ 21. All Acts and parts of Acts in conflict with this Act are, to the extent of such conflict, hereby repealed.

§ 22. It is the intent and purpose of the General Assembly of this Commonwealth of Kentucky to enact each and every provision of this Act separately, so that in the event the courts for any reason should hold any provision thereof void, or the application of any provision thereof void, then all other provisions or the application of any or all other provisions shall be deemed to remain in full force

and effect; and it is hereby expressly declared that the General Assembly would have enacted any part or provisions of this Act, irrespective of any other part or provision thereof.

By Mr. Joe E. Robinson.

H. B. 322. AN ACT relating to alcoholic beverages, repealing, amending, and re-enacting subsection (5) of section 2, and sections 15, 33, 35, 37, 52, 53, 94, and 95 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly; declaring the sections or applications thereof separable; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That subsection (5) of section 2 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The word "bottle" shall mean and include any glass container or glass receptacle used for holding alcoholic beverages, which bottle or glass container or glass receptacle may be refilled with alcoholic beverages for the use and sale of alcoholic beverages at retail.

§ 2. That section 15 of Chapter 2, Acts of hte Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The municipal legislative body of any city of the first, second, or third class in which traffic in alcoholic beverages is permitted under section 2554c-1 to 2554c-42 inclusive of Carroll's Kentucky Statutes, 1936 edition, may, by ordinance duly enacted, create a City Alcoholic Beverage Administrator.

No person shall be a City Administrator or employee thereof who would be disqualified to be a member of the State Board under the terms of section 10 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, and any person who acts as a City Administrator or employee thereof in violation of this provision shall be subject to the penalties provided in said section. The City Administrator in each city of the first, second, and third classes shall be appointed by the City Manager if there be one; otherwise by the Mayor. The functions, powers, and duties of each City Administrator shall be the same with respect to city licenses and regulations, as the functions, powers, and duties of the State Alcoholic Beverage Control Board with respect to State licenses and regulations, except that no rule or regulation adopted by any City Administrator may be less stringent than the provisions set up in the Alcoholic Beverage Control Law of 1938 and said Act as hereby amended, or than those set up in the rules and regulations of the State Board, and no rule or regulation of a City Administrator shall become effective until approved by the State Board. Each City Administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars ($1,000), faithfully to perform the duties of his office, pursuant to the provisions of sections 3751 et sequitur of Carroll's Kentucky Statutes, 1936 edition. Each City Administrator may require any of his employees to execute a similar bond in such penal sum as he may deem necessary, conditioned upon the proper and faithful performance of his duties and a satisfactory accounting of all monies received and disbursed by such employee. The cost of such bonds shall be borne by the city. No person shall be eligible to apply to the State Board for any State license provided for under the Alcoholic Beverage Control Law as hereby amended, until he shall have applied to his City Administrator, if he is

subject to the jurisdiction of a City Administrator, and shall have obtained approval of his application for the City license. Appeals from the orders of each City Administrator may be taken by any party aggrieved to the State Alcoholic Beverage Control Board, by filing with the latter Board within ten (10) days a certified copy of the orders of the City Administrator, whereupon the matters at issue shall be heard as upon an original proceeding. Appeals from orders of the City Administrator in such cases and the procedure upon appeals shall be governed by the terms and provisions of section 47 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

§ 3. That section 33 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted is shall read as follows:

Applications for any license provided for in section 18 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, shall be made to the Administrator of the Distilled Spirits Unit at his office in Frankfort, Kentucky; shall be in writing on forms furnished by the Department of Revenue, and verified; and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as said Act or the State Board shall by regulation require. Said application shall be accompanied by a certified check, or cash, or a postal or express money order for the amount of money required by the Act for a license of the kind applied for. If the Administrator shall approve the application, he shall issue the proper license in such form as shall be determined by the State Board by regulation, subject to the provisions of section 38 Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

No license except those provided in subsections (6) and (8) of section 29 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, shall be issued in less than

twenty (20) days or delivered in less than thirty (30) days from the time the application and remittance were received by the Department of Revenue; except that a Special Agent's or Solicitor's License, as authorized under subsection (4) of section 30 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, may be issued by the Administrator at the expiration of five (5) days from the date on which the application for said license was received by the Department of Revenue.

§ 4. That section 35 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

Every person, except a person applying for renewal of the same license for the same premises, or an applicant for a Special Agent's or Solicitor's License, or an Industrial Alcohol License, or a Non-Industrial Alcohol License, shall, before applying for any license under section 18 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, advertise his intention so to apply by inserting in a newspaper of general circulation in the county in which are located the premises for which the license is sought (if there be any such newspaper in the county and if there be no newspaper of general circulation in the county, then in the closest adjacent city which has such a newspaper) at least once a week for two consecutive weeks next before such application is filed, a concise advertisement stating the name and address of the applicant if he be an individual, the names and addresses of the members of partnership if the applicant be a partnership, as well as the name of the business and its address, or, if the applicant be a corporation, the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself; the location of the premises for which the license is sought, and the type of license to be applied for. The appli-

cant shall attach to the application a newspaper clipping of such advertisement and a proof of such publication, substantially in the following form, to-wit:

..... of .....
(Name of Officer) (City) (State)
being first duly sworn, says that he is .....
(Title or Position)
of the publisher of the .....
(Name of Newspaper)
a newspaper printed and published in the State of .....
County of ....., and having a general circulation in the County of ....., and that the advertisement of which the attached is a true copy has been published in said newspaper on the following dates, viz:

.....

.....
(Signature of Officer)

Subscribed and sworn to before me, a Notary Public within and for the State and County aforesaid, by .....
..... to me personally known, this
..... day of ....., 19.....
My commission expires the ..... day of .....,
19.....

.....
(Signature of Attesting Official)

County .....
Notary Public .....

§ 5. That section 37 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

Every applicant for a Distiller's, Rectifier's, or Vintner's License shall accompany his application with a bond

to the Commonwealth of Kentucky in the amount of one thousand dollars ($1,000), to insure payment to the Commonwealth of Kentucky of the amount of all taxes and penalties and interest for which the said distiller, rectifier, or vinter may become liable, on a form to be approved by the Department of Revenue and with corporate surety registered by the Division of Insurance of the Department of Business Regulations, and upon which such applicant shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee, conditioned upon the prompt payment by the said distiller, rectifier, or vintner to the Department of any and all taxes which are now or might hereafter be levied or imposed by the Commonwealth of Kentucky, together with all penalties and/or interest thereon.

Every applicant for a Wholesaler's License shall accompany his application with a bond to the Commonwealth of Kentucky in the minimum amount of two thousand dollars ($2,000), or an amount equal to three times the monthly tax liability, whichever shall be less, and up to a maximum amount sufficient in the opinion of the Department, the financial reputation and rating of the applicant considered, not in any event to exceed twenty-five thousand dollars ($25,000), to insure payment to the Commonwealth of Kentucky of the amount of any and all taxes and penalties and interest for which the dealer may become liable, on a form to be approved by the Department of Revenue and with surety thereon approved by said Department and upon which such applicant shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee, conditioned upon the prompt payment by the wholesaler to the Department of any and all taxes which are now or might hereafter be levied or imposed by the Commonwealth of Kentucky, together with all penalties and/or interest thereon.

In the event the surety or sureties on these bonds shall become unsatisfactory in the opinion of the Department, the

Department may require the Distiller, Rectifier, Vintner, or the Wholesaler to file a new bond with satisfactory surety in the same amount, failing which the Department shall forthwith suspend the license of said Distiller, Rectifier, Vintner, or Wholesaler. In the event that upon hearing, of which the licensee shall be given five (5) days notice in writing, the Department shall decide that the amount of the existing bond is insufficient, then said licensee shall forthwith, upon written demand of the Department, file an additional bond in the same amount, manner, and form, and with a surety approved by the Department, failing which the license of the Distiller, Rectifier, Vintner, or Wholesaler shall immediately be revoked. Any surety on any bond furnished by any Distiller, Rectifier, Vintner, or Wholesaler as above provided, shall be released and discharged from any and all liability to the Commonwealth of Kentucky accruing on such bond after the expiration of sixty (60) days from the date upon which the surety shall have filed with the Department written request to be released and discharged; provided, however, that such a request shall not operate to relieve, release, and discharge such surety from any liability already accrued or which shall accrue before the expiration of said sixty (60) day period.

A suit to recover on any of the bonds mentioned in this section may be brought in the Franklin Circuit Court or in the Circuit Court of the county in which the licensed premises are located, in the name of the Commonwealth of Kentucky, by the Commissioner of Revenue or on relation of any party aggrieved, and in the event that the obligor named in such bond has violated any of the conditions of such bond, recovery of the penal sum of such bond may be had in favor of the Commonwealth of Kentucky or of the party aggrieved, or judgment for tax, penalties and interest may be rendered in favor of the Commonwealth of Kentucky.

§ 6. That section 52 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted is shall read as follows:

It shall be a criminal offense for any person not licensed where a license is required under the provisions of the Alcoholic Beverage Control Law of 1938 or amendments thereto, to manufacture, store, sell, purchase, transport, or otherwise in any manner traffic in alcoholic beverages, as that term is defined therein, notwithstanding that such offense may be committed in local option territory, as such term is used in section 2554c-1 et sequitur of Carroll's Kentucky Statutes, 1936 edition; provided, however, that this Act shall not be construed to supersede section 2554c-1 et sequitur of Carroll's Kentucky Statutes, 1936 edition, and that an offense under this section committed in local option territory may be, at the discretion of the court having jurisdiction over the offense, tried under either (but not both) the Alcoholic Beverage Control Law of 1938 or amendments thereto, and that the penalties provided in the law under which the offense is tried shall, upon conviction, be applicable.

§ 7. That section 53 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The following property, even though said property may be found and seized in local option territory, as it is defined in section 2554c-1 et sequitur of Carroll's Kentucky Statutes, 1936 edition, or as thereafter amended by the General Assembly, is hereby declared contraband:

(1) Any illicit still designed for the unlawful manufacture of intoxicating liquors, or any apparatus designed for the unlawful manufacture of spirituous, vinous, malt, or intoxicating liquors. An illicit still or apparatus designed for the unlawful manufacture of intoxicating liquors

shall include, among other things, (a) an outfit or parts of an outfit commonly used or intended to be used in the distillation or manufacture of spirituous, vinous, or malt liquors which is not duly registered in the office of a collector of Internal Revenue for the United States, and the burden of proof that same is so registered shall be on the defendant or defendants under charge; (b) any and all material, equipment, implements, devices, firearms, and other property used or intended for use directly and immediately in connection with the illicit traffic in alcoholic beverages.

(2) Any spirituous, vinous, or malt liquors in the possession of anyone not entitled to possession of the same under the provisions of the Alcoholic Beverage Control Law of 1938 or amendments thereto.

(3) Any spirituous, vinous, or malt liquors in the possession of anyone to which the revenue stamps have not been affixed as and when required by the provisions of the Alcoholic Beverage Tax Act, sections 4281c-1 to and including 4281c-25 of Carroll's Kentucky Statutes, 1936 edition, or as hereafter amended.

(4) Any distilled spirits, wine, or malt beverage in a container of a size prohibited by law or prohibited the particular party in whose possession same is found.

(5) Any distilled spirits or wine kept in an unauthorized place within any licensed premises under the provisions of section 77 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

(6) Any motor vehicle, water or air craft, or other vehicle in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic liquors unless lawfully acquired and intended for lawful uses.

Any peace officers, including the Administrators, and the field representatives of the Department of Revenue, are hereby authorized, upon probable cause, to seize without

warrant any of the property declared to be contraband under this section, regardless of whether such property be in local option territory or not, and to hold the same subject to the order of the court before which the owner or one in possession of such property has been charged with violation of section 52 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly and amendments thereto, or in violation of sections 2554c-1 through and including 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, or as they may be amended. Upon conviction of the defendant, the court shall enter an order vesting title in all the contraband property in the Alcoholic Beverage Control Board. If such property is seized in local option territory, title shall vest in the Alcoholic Beverage Control Board only if the property was seized by the administrators, field representatives of the Department of Revenue, or released to the Department of Revenue by other officials.

Contraband property included in subsection (6) above shall be subject to the right of any owner or lienor whose lien is valid and of record, to intervene and establish his rights in such property by proving that the property was being used in connection with traffic in alcoholic beverages without the knowledge, consent, or approval of such owner or lienor. If the owner of the property does so prove, the court shall order the property restored to such owner. If the lienor so proves, the court shall order a sale of the property at public auction, unless, however, an agreement is made between the lienor and the Board, which shall not become final until it has been approved by the court. The Board is hereby authorized to deliver any property found to be contraband to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the Board of the difference between the fair market value of the property so seized and the recorded claim of the lienor. It is the legislative intent that where an agreement has been made between

the lienor and the Board, and approved by the court, a public auction shall not be required. In the event an agreement is not entered into between the Board and the lienor or approved by the court, and a public auction is required to be held, such public auction shall be conducted by the sheriff of the county in which the property is seized, who shall receive and be allowed the same fees as allowed for sales under execution. The expenses of keeping and selling all such property, and of all valid recorded liens which are established by intervention as being bona fide, shall be paid out of the proceeds of the sales, whether they be private or public. The balance shall be paid into the State Treasury and be credited to the General Expenditure Fund. If the defendant be acquitted, no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession same was taken proves that he was in lawful possession of said property, and if no other person appears and proves ownership, or that he has valid recorded lien and that the property was being used without his knowledge, consent, and approval, then title shall vest in the Alcoholic Beverage Control Board in ninety (90) days. If the owners or lienholders whose lien is valid and of record of any contraband seized by Administration or field representatives of the Department of Revenue, or turned over to said Department by other officials under this Act, cannot be located within ninety (90) days, and during that time shall fail to appear and claim such contraband; or if such owner or lienholder appears and agrees, title to such contraband shall immediately vest in the State Alcoholic Beverage Control Board, in which event the Board is authorized to sell such contraband property at a private sale.

§ 9. That section 94 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, be repealed, amended and re-enacted, so that when amended and re-enacted is shall read as follows:

Any person who, by himself or acting through another, directly or indirectly, shall violate the provisions of sections 52 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, and as hereby amended, shall, for the first offense be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) and not to exceed two hundred dollars ($200), or by imprisonment in the county jail or workhouse for a term not to exceed six (6) months, or by both such fine and imprisonment; for the second offense the offender shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two hundred ($200) and not to exceed five hundred dollars ($500), or by imprisonment in the county jail or workhouse for a term not to exceed six (6) months, or by both such fine and imprisonment; and for the third and each subsequent offense, the offender shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than five hundred dollars ($500) and not to exceed five thousand dollars ($5,000), or by imprisonment in the penitentiary for a term not to exceed five (5) years, or by both such fine and imprisonment; provided, that in case the offender be a corporation, joint stock company, association, or fiduciary, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 10. That section 95 of Chapter 2, Acts of the Regular session of the 1938 General Assembly, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

Any person who, by himself or acting through another, directly or indirectly, shall violate the provisions of any section of the Alcoholic Beverage Control Law of 1938, and amendments thereto, other than section 52 as hereby amended, or sections 104 to 117 inclusive of this Act, for which a specific

penalty is not provided, shall, for the first offense, be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine of not less than one hundred dollars ($100) and not exceed two hundred dollars ($200), or by imprisonment in the county jail or workhouse for a term not to exceed six (6) months, or by both such fine and imprisonment; and for the second and each subsequent violation, shall be punished by a fine not less than two hundred dollars ($200) and not to exceed five hundred dollars ($500), or by imprisonment in the county jail or workhouse for a term not to exceed six (6) months, or by both such fine and imprisonment. The penalties provided for in this section shall be in addition to the revocation of the offender's license; provided, that in case the offender be a corporation, joint stock company, association, or fiduciary, then the principal officer or officers responsible for such violation may be punished by such imprisonment. Nothing in this section shall be construed as conflicting with the penal provisions of section 10 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

§ 11. The sections, subsections, and all provisions of this Act are severable, and if any of the sections, subsections, provisions, or the application thereof shall be held unconstitutional, such section, subsection, provision, or the application thereof held to be unconstitutional may be rejected without affecting the remainder of this Act and the decisions of the courts shall not affect or impair the remaining sections, subsections, provisions of this Act or the application thereof. It is hereby declared to be the legislative intent that this Act would have been adopted had not such unconstitutional section, subsection, or provison been included, or such application thereof adopted.

§ 12. The present condition with respect to the law governing the sale, distribution, and use of alcoholic beverages constitutes an emergency, and this Act shall become a

law and become effective on its passage and approval by the Governor.

By Mr. Florence.

H. B. 323. An Act to repeal, amend and re-enact section 1954d-42, Kentucky Statutes, relating to game and fish.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 1954d-42, Kentucky Statutes, be repealed, amended and re-enacted, so that when so repealed, amended, and re-enacted said section shall read as follows:

"It shall be unlawful to take fish or attempt to take fish in any manner or by any means in any of the public waters of this State during the month of May each year, except with a pole and line."

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Hunnicutt.

H. B. 324. AN ACT amending Sections one (1), two (2), (3), four (4), five (5), six (6), seven (7), nine (9), ten 10), twelve (12), thirteen (13), sixteen (16), seventeen (17), nineteen (19), twenty (20), twenty-one (21), twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26) of Chapter one hundred and ten (110) of the Acts of the General Assembly of ninteen twenty-two (1922), being Sections eight eighty-three g-one (883 g-1), eight eighty-three g-two (883-g-2), eight eighty-three g-three (883 g-3), eight eighty-three g-four (883 g-4), eight eighty-three g-five (883 g-5), eight eighty-three g-six (883 g-6), eight eighty-three g-seven (883-g-7), eight eighty-three g-nine (883 g-9), eight eighty-three g-ten (883 g-10), eight eighty-three g-twelve (883 g-12),

eight eighty-three g-thirteen (883 g-13), eight eighty-three g-sixteen (883 g-16), eight eighty-three g-seventeen (883 g-17), eight eighty-three g-ninteen (883 g-19), eight eighty-three g-twenty (883 g-20), eight eighty-three g-twenty-one (883 g-21), eight eighty-three g-twenty-three (883 g-23), eight eighty-three g-twenty-four (883 g-24), eight eighty-three g-twenty-five (883 g-25), eight eighty-three g-twenty-six (883 g-26), Carroll's Kentucky Statutes, ninteen thirty-six (1936) edition relating to the establishment and operation of credit unions in the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), nine (9), ten (10), twelve (12), thirteen (13), sixteen (16), seventeen (17), ninteen (19), twenty (20), twenty-one (21), twenty-three (23), twenty-four (24), twenty-five (25), and twenty-six (26) of Chapter one hundred and ten (110) of the Acts of the General Assembly of nineteen twenty-two 1922), being sections eighty-three g-one (883 g-1), eight eighty-three g-two (883 g-2), eight eighty-three g-three (883 g-3), eight eighty-three g-four (883 g-4), eight eighty-three g-five (883 g-5), eight eighty-three g-six (883 g-6), eight eighty-three g-seven (883 g-7), eight eighty-three g-nine (883 g-9), eight eighty-three g-ten (883 g-10), eight eighty-three g-twelve (883 g-12), eight eighty-three g-thirteen (883 g-13), eight eighty-three g-sixteen (883 g-16), eight eighty-three g-seventeen (883 g-17), ight eighty-three g-nineteen (883 g-19), eight eighty-three g-twenty (883 g-20), eight eighty-three g-twenty-one (883 g-21), eight eighty-three g-twenty-three (883 g-23), eight eighty-three g-twenty-four (883 g-24), eight eighty-three g-twenty-five (883 g-25), and eight eighty-three g-twenty-six (883 g-26), Carroll's Statutes ninteen thirty-six (1936) edition, be, and the same are hereby,

amended by repealing said sections in their entirety and reenacting same so that as amended and reenacted said sections will read as follows, to wit:

Section 883 g-1. INCORPORATION AND BY-LAWS. Any eight persons, residents of the State of Kentucky, may apply to the Director for permission to arganize a credit union. The term "The Director" as used in this Act shall mean the Director of the Division of Banking of the Department of Business Regulation of the Commonwealth of Kentucky. Persons uniting to form a credit union shall sign and acknowledge in duplicate articles of incorporation and shall enter into articles of agreement, in which they shall bind themselves to comply with its requirements and with all the laws, rules and regulations applicable to credit unions. The certificate of organization shall contain the following:

(1) The name of the proposed credit union.

(2) A statement that incorporation is desired under this particular law.

(3) The par value of shares, which shall be five dollars.

(4) The city, town or village in which the business office of the corporation is to be located.

(5) The names and addresses of the subscribers to the articles of incorporation and a statement of the number of shares of stock subscribed by each. At the time of filing the said articles of incorporation with the Director the incorporators shall submit, in duplicate, a set of by-laws (with acknowledgement of their adoption by the incorporators) which shall provide:

(a) The date of the annual meeting, which shall be in January of each year; the manner in which members shall be notified of meetings; the manner of conducting meetings; the number of members constituting a quorum with regulations as to voting.

(b) The number of directors, which shall not be less than five, all of whom shall be members of the corporation;

their powers and duties, together with the duties of officers elected by the board of directors.

(c) The conditions of residence, occupation or other conditions consistent with this Act which shall qualify persons for membership.

(d) The number of members of the credit committee, together with their powers and duties.

(e) The number of members of the supervisory committee, together with their powers and duties.

(f) The conditions upon which shares may be issued, transferred and withdrawn.

(g) The charges, if any, which shall be made for failure to meet obligations punctually.

(h) The condition upon which deposits may be received and withdrawn, and whether the corporation shall have the power to borrow.

(i) The manner in which the funds of the corporation shall be invested.

(j) The conditions upon which loans may be made and repaid.

(k) The method of receipting for money paid in on account of shares, deposits or loans.

(l) The manner in which the reserve fund shall be accumulated.

(m) The manner in which dividends shall be determined and paid out.

The certificate of organization and by-laws of the proposed credit union shall be approved by the Director, if he is satisfied that (1) the provisions of the certificate of organization and by-laws are in conformity with this act; (2) the proposed field of operation of the credit union is favorable to its success; (3) permitting the credit union to engage in business will promote the convenience and advantage of those persons or groups of persons who are eligible to be-

come members of the credit union; (4) the financial responsibility, experience, character, and general fitness of the organizers of the credit union are such as to command the confidence of the community and to warrant the belief that the business of the credit union will be operated honestly, fairly, and efficiently, in accordance with the purposes of this Act. Thereupon the said Director shall issue to the said incorporators a certificate of approval annexed to the duplicate of said article of incorporation and of said by-laws, which certificate of approval together with said attached duplicate articles of incorporation, acknowledged by the incorporators to have been adopted by them, shall be filed in the office of the clerk of the county in which the credit union is located, and an attested copy of the record of the articles of incorporation filed in the office of the county clerk shall be filed in the office of the Secretary of State. Upon such filing the said incorporators shall become and be a corporation.

Section 883 g-2. AMENDMENTS TO BY-LAWS. The by-laws, so approved, shall be the by-laws of the corporation, and no amendment shall become operative until approved by the Director.

Section 883 g-3. RESTRICTION OF THE TERM "CREDIT UNION." Any person, corporation, co-partnership or association, using any name or title which contains the words "Credit Union", except corporations organized under the provisions of this Act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than $50.00 or more than $500.00, or imprisoned in the county jail not less than three months nor more than one year, or both so fined and imprisoned, in the discretion of the court or jury trying the case.

Section 883 g-4. POWERS. A credit union may receive the savings of its members in payment for shares or on deposits; may lend its funds to its members for provident and

productive purposes, or may undertake such other activities, consistent with the purposes of this Act and relating to the business of the corporation, and its by-laws may authorize.

Section 883 g-5. MEMBERSHIP. The membership of the corporation shall consist of the incorporators, and such persons, socities, associations, co-partnerships, and corporations, as have been duly elected to membership, and have subscribed for one or more shares and have paid for the same in whole or in part, together with the entrance fee as provided in the by-laws and have complied with such other requirements as the articles of incorporation and the by-laws may specify; Provided, however, that membership in each corporation, organized under the terms of this Act, shall be limited, within the several corporations so organized, to those persons, societies, associations, co-partnerships, and corporations, who or which, independent of their membership in the credit union, shall have a mutual affiliation, one with another, by either (1) duly enrolled membership in a religious, or social, or educational group or association, or (2) by identity of profession, occupation, trade, or business, or (3) by the identity of their employer, or (4) by their location for residential or occupational purposes, within an area, to be defined in the by-laws, containing, at the time the credit union is so organized, not more than two thousand persons, socities, associations, co-partnerships, or corporations, who or which, by the purchase of shares and election to membership, might become members of such credit union.

It shall be lawful for the officers, directors and members of committees of credit unions organized in this Commonwealth, and of Federal credit unions operating in Kentucky, to form a credit union in which they, and credit unions so operating, may, as such, have membership.

Section 883 g-6. REPORTS — EXAMINATION — SUPERVISION. Corporations organized under the provisions of this Act shall be subject to the supervision of the

Director, who is hereby authorized and empowered to make such general rules and regulations, and such special rulings, demands and findings, as may be necessary for the proper conduct of such business and the proper supervision and regulation thereof, and the enforcement of this Act, in addition hereto and not inconsistent herewith.

Each credit union shall make a report of condition to the Director (on blank forms to be supplied by the Department of Business Regulation) on the dates of the calls made to state banks, notice of which calls shall be sent out by the Director. They shall be verified by the oath of a majority of the members of the supervisory committee, or by the oath of the president and treasurer or secretary, and further reports shall be made as the Director at any time shall demand.

Any such corporation which neglects to make reports under call shall pay to the Department of Business Regulation $10.00 for each day of said neglect, unless excused. Each credit union shall be examined once each year, but the Director may, in his discretion, order such other examination or examinations as he may deem to be necessary; and the examiners appointed by him shall be given free access to all books, papers, securities and other sources of information in respect to said corporation, provided the Director shall so order. For the purposes of such examination, the Director, or his duly authorized deputy, shall have the power and authority to subpoena witnesses and documentary evidence, and to examine, personally, or by one of his deputies or examiners, such witnesses on oath and such documents, whether such witnesses are members of the corporation or not, and whether said documents are documents of the corporation or not.

Each credit union shall pay to the Department of Business Regulation a fee for the making of such examinations as are necessary under the provisions of this Act, based

upon the gross asset value of the corporation, in accordance with the following schedule:

ASSETS	FEE
$ 5,000.00 and under	$ 7.50
5,000.00 to $ 10,000.00	10.00
10,000.00 to 15,000.00	12.50
15,000.00 to 25,000.00	15.00
25,000.00 to 50,000.00	25.00
50,000.00 to 100,000.00	35.00
100,000.00 to 150,000.00	50.00
150,000.00 to 300,000.00	60.00
300,000.00 and over	70.00

Credit unions having assets of $300,000.00 and over shall pay an additional fee of $15.00 per day for each day in excess of five which shall be necessary to conduct an examination of such credit union. An additional fee of $10.00 shall be paid by any credit union, the books of which are not balanced to a date within sixty days prior to the examination.

All fees and penalties collected by the Department of Business Regulation under this Act shall be paid into the Treasury of the Commonwealth and are hereby appropriated to the Department of Business Regulation, Division of Banking, for its use in defraying the expenses of the administration of this Act.

In the event that any credit union shall fail to make its reports as hereinabove provided for more than fifteen days after the same shall be due, or, in the event that any credit union shall fail to pay such charges as are herein required including the charges for delay in filing reports, the Director shall give notice to such corporation of his intention to revoke the certificate of approval of said corporation for said failure, and if such failure continues for fifteen days after such notice, then the Director may, at his discretion, revoke said certificate and he, or one of his deputies acting under his

order, shall take possession of the property and business of such credit union and retain the possession thereof until such time as the Director may permit it to resume business or its affairs shall be finally liquidated.

In the event that it shall appear to the Director that any credit union has violated any of the provisions of this Act, or any rule or regulation adopted pursuant thereto, he may, by an order made over his hand and official seal, after hearing or after an opportunity for hearing has been given such credit union, direct any such corporation to discontinue the illegal methods and practices specified in said order. If any credit union is insolvent or has violated any of the provisions of this Act, or has failed within a reasonable time to comply with any order mailed to the last address recorded by such corporation with the Director, then the Director, or one of his deputies acting under his order, shall take possession of the business and property of such corporation as soon as may be conveniently done, and shall retain such possession until such time as the Director may by order permit it to resume business, or its affairs shall be finally liquidated.

Section 883 g-7. ORGANIZATION OF RURAL CREDIT UNIONS. To further facilitate the organization of credit unions as provided in this Act, among groups of farmers, it shall be the duty of the Department of Agriculture, Labor and Statistics of the Commonwealth of Kentucky, in addition to its duties now prescribed by law:

(1) To organize and conduct a Bureau of Information in regard to credit unions.

(2) Upon application of three residents of the State of Kentucky to furnish, without cost, such printed information and blank forms as may be approved by the Director as proper and necessary for the formation and establishment of any credit union in the State of Kentucky.

Section 883 g-9. ELECTIONS. At the annual meeting the members shall elect a board of directors of not less than

five members, a credit committee and a supervisory committee of not less than three members each. Unless the number of members of the credit union is less than eleven, no member of the board shall be a member of either of said committees, nor shall one person be a member of more than one of said committees and all members of committees and all directors as well as the officers whom they may elect, shall be sworn, and shall hold their several offices for such term as may be determined by the by-laws.

The oath required of each director, officer and member of committee shall be the oath of the individual taking the same that he will, as far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to such corporation, and that he is the owner in good faith and in his own right on the books of the corporation of at least one share therein. Such oath shall be subscribed by the individual taking it and certified by the officer before whom it was taken and shall immediately be transmitted to the Director and be filed and preserved in his office.

Section 883 g-10. DIRECTORS—OFFICERS—COMPENSATION. At the first meeting and at each first meeting in the fiscal year, the board of directors shall elect from their number a president, a vice-president, a secretary and a treasurer. The offices of secretary and treasurer may, if the by-laws so provide, be held by one person. The board of directors shall have the general management of the affairs, funds and records of the corporation and shall meet as often as may be necessary. Unless the by-laws shall specifically reserve all or any of the duties to the members, it shall be the special duty of the directors:

(1) To act upon all applications for membership and the expulsion of members.

(2) To fix the amount of the surety bond which shall be required of each officer having the custody of funds.

(3) To determine from time to time the rate of interest, consistent with the provisions of this Act, which shall be allowed on deposits and charged on loans.

(4) To fix the maximum number of shares which may be held by and the maximum amount which may be loaned to any one member; to declare dividends and to recommend amendments to the by-laws.

(5) To fill vacancies in the board of directors and in the credit committee until the election and qualification of successors.

(6) To have charge of the investment of funds of the corporation, other than loans to members, and to perform such other duties as the members may from time to time authorize.

(7) To employ such person or persons as may be necessary to carry on the business of the credit union: Provided, however, that no officer, director or member of the credit committee or supervisory committee, jointly or severally, shall receive any compensation, directly or indirectly, for his services performed for the credit union as such officer, director or committee member, or otherwise, except the treasurer who may receive compensation for his services as treasurer in an amount to be fixed by the members of the credit union at an annual meeting or at a special meeting called for the purpose of fixing such compensation, and not otherwise.

Section 883 g-12. SUPERVISORY COMMITTEE — AUDIT AND REPORT. The supervisory committee shall inspect the securities, cash and accounts of the corporation and supervise the acts of its officers, board of directors and credit committee. At any time, the supervisory committee, by a unanimous vote, may suspend the credit committee or any member thereof, the board of directors or any member thereof, or any officer or officers elected by said board and, by a majority vote, they may call a meeting of the shareholders to

consider any violation of this act or of the by-laws or any practice of the corporation which, in the opinion of said committee, is unsafe or unauthorized. Within seven days after the suspension of any member of said board, committee or officer, the supervisory committee shall cause notice to be gvien of a special meeting of all the members to take action relative to such suspension. The supervisory committee shall fill vacanceis in their own number until the next meting of the members. The fact of the intention to fill such vacancy shall be contained in the call for the meeting.

The supervisory committee shall make, or cause to be made, at least quarterly, an examination of the affairs of the credit union, including an audit of its books; shall make, or cause to be made, an annual audit and a report to be submitted to the annual meeting of the credit union. The supervisory committee shall cause the pass-books and accounts of the members to be verified with the records of the treasurer from time to time and not less frequently than once every two years.

Section 883 g-13. CAPITAL — ENTRANCE FEE — TRANSFER FEE. The capital of the credit union shall consist of the payments that have been made to it by the several members thereof on shares. Shares may be subscribed for and paid in such manner as the by-laws shall prescribe. A credit union shall have a lien on the shares of any member and upon any dividends payable thereon for and to the extent of any loan made to him and of any dues and fines payable by him. A credit union may, upon the resignation or expulsion of a member, cancel the shares of such member and apply the withdrawal value of such shares towards the liquidation of the said member's indebtedness.

A credit union may, if the by-laws so provide, charge an entrance fee, not to exceed twenty-five cents, to be paid by the shareholder, upon his election to membership.

Fully paid shares of a credit union may be transferred to any person upon election to membership, upon such terms

as the by-laws may provide and the payment of a transfer fee which shall not exceed twenty-five cents.

Section 883 g-16. DEPOSITS. A credit union may receive the savings and deposits of its members only in such amounts and upon such terms as the board of directors may determine and the by-laws provide.

Section 883 g-17. RATES OF INTEREST. A credit union may lend its funds to its members at rates of interest not exceeding one per centum per month on the unpaid balance of the loan, which amount shall be in full satisfaction of, and in lieu of, all other charges incident to the making of the loan, except fines for delinquent payments, and in the case of secured loans, premiums incurred in the carrying of insurance against the loan, mortgage recording fees, title examination fees, and such other reasonable charges as may be necessarily incident to the effective protection of the loan by the security offered.

Section 883 g-19. INVESTMENT OF FUNDS. The capital, deposits, undivided profits and reserve fund of the corporation to the extent said resources are not utilized for loans to members as provided in this Act, may be invested in the following ways and in such ways only:

(1) They may be deposited to the credit of the corporation in savings banks, credit unions, state banks and trust companies, national banks, and in Federal credit unions operating in Kentucky.

(2) Not more than 10% of the capital stock and reserve funds of a credit union may be invested in the stock of other credit unions, including Federal credit unions operating in Kentucky.

(3) They may be invested in any investment which is legal for savings banks in the State of Kentucky.

Section 883 g-20. LOANS TO MEMBERS. A credit union may make loans to its members for provident or pro-

ductive purposes, and upon such security and terms as the by-laws shall provide and the credit committee shall approve, but security must be taken for any loan in excess of $300.00. Endorsement of a note or assignment of shares in any credit union shall be deemed security within the meaning of this section.

A member who needs funds with which to purchase necessary supplies for current crops may receive a loan in fixed monthly installments instead of one sum.

A borrower may repay the whole or any part of his loan on any day on which the office of the corporation is open for the transaction of business.

No officer, member of the board of directors, or member of the credit or supervisory committee shall be allowed to borrow from a credit union, a sum exceeding the amount of his investment in the credit union, as represented by fully paid shares, accumulated dividends and deposits, unless so authorized by the members of the credit union at an annual meeting, or at a special meeting called for the purpose of considering such borrowing. If an application for a loan is made by a member of the credit committee, then the supervisory committee shall appoint a substitute to act on said credit committee in the place of the prospective borrowing member thereof, in the consideration and determination of such loan. No director, officer, or member of the credit or supervisory committee shall become an endorsr for a borrower, unless and until authorized to do so by the members of the credit union at an anual meeting, or at a special meeting called for the purpose of authorizing the proposed endorsement.

All officers and members of any committee, in any way knowingly permitting or participating in the making of a loan of funds of a credit union to a non-member thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $10.00 or more than $100.00, or

imprisoned in the county jail not less than thirty days nor more than six months, or both so fined and so imprisoned in the discretion of the court or jury trying the case. The credit union shall have the right to recover the amount of such illegal loan from the borrower, or from any officer or member of any committee who knowingly committed or participated in the making thereof, or from all of them jointly.

Section 883 g-21. RESERVE FUND. All entrance fees, transfer fees and charges shall, after the payment of the organization expenses, be known as reserve income, and shall be added to the reserve fund of the corporation.

At the close of each fiscal year there shall be set apart to the reserve fund twenty per centum of the net income of the corporation which has accumulated during the year, until the reserve fund shall equal at the end of a fiscal year twenty-five per centum of the total paid in capital of the credit union, as represented by the amount paid in on shares; thereafter, a sufficient portion of the annual net income shall be allocated to the reserve fund to maintain the reserve fund at a ratio of twenty-five per centum of the paid in capital at the end of each fiscal year. Upon the recommendation of the board of directors, the members at an annual meeting may increase the proportion of profits to be set apart to the reserve fund, and may likewise increase the proportion which the reserve fund shall bear to the paid in capital, provided that the proportion shall at no time be less than twenty-five per centum thereof.

The reserve fund shall belong to the corporation and shall be held to meet contingencies, and shall not be distributed to the members except upon dissolution of the corporation.

Section 883 g-23. NOTES — DRAFTS — BILLS OF EXCHANGE. Notes, drafts, bills of exchange executed for the purpose of this Act, having a maturity not to exceed six months, and indorsed by a national bank, a state bank or a

trust company may be re-discounted in the open market. The total of such paper outstanding shall at no time exceed the paid-in capital and surplus: Provided, however, that the Director in his discretion may extend this limit temporarily, and provided further, that the limitation here fixed shall not be considered money borrowed under Section 18.

Section 883 g-24. EXPULSION AND WITHDRAWAL. At any regularly called meeting the members, by a two-thirds vote of those present, may expel from the corporation any member thereof for cause and after hearing. A member may withdraw from a credit union as hereinafter provided, by filing a written notice of such intention.

All amounts paid in on shares of an expelled or withdrawing member, with any dividends credited to his shares to the date of expulsion or withdrawal, shall be paid to such member in the order of expulsion or withdrawal and only as funds therefor become available, after deducting any amounts due to the corporation by such member. Said member, when withdrawing shares or deposits, shall have no further right in said credit union or to any of its benefits but such expulsion or withdrawal shall not operate to relieve said member from any remaining liability to the corporation.

Section 883 g-25. VOLUNTARY DISSOLUTION. At any meeting specifically called to consider the subject, four-fifths of the entire membership of the corporation may vote to dissolve the corporation and upon such vote shall signify their consent to such dissolution in writing. Such corporation shall then file with the Director such consent, attested by the secretary or treasurer and its president or vice-president, with a statement of the names and residences of the existing board of directors of such corporation and the names and residences of the officers, duly verified. The Director, upon receipt of satisfactory proof of the solvency of the corporation, shall issue to such corporation in duplicate a certificate to the effect that such consent and statement have been filed

and that it appears therefrom that such corporation has complied with this section. Such duplicate certificate shall be filed by such corporation in the office of the clerk of the county or municipality in which the corporation has its place of business, and thereupon such corporation shall be dissolved and shall cease to carry on business except for the purpose of adjusting and winding up its affairs. The said corporation, by its board of directors, shall then proceed to adjust and wind up its business and is empowered to carry out its accounts receivable, and to liquidate its assets and apply the same in discharge of its obligations, and after paying such obligations, each share according to the amount paid thereon, shall be entitled to its proportion of the balance of the assets. Said corporation shall continue in existence for the purpose of discharging its debts or obligations, collecting and distributing its assets, and doing all other acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted and wound up.

Section 883 g-26. CHANGE OF PLACE OF BUSINESS. A credit union may change its place of business on written notice to the Director.

REPEAL OF CONFLICTING LEGISLATION, SEPARABILITY AND DECLARATION OF AN EMERGENCY.

All laws or parts of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict. It is intended that this act shall be valid to the fullest extent possible. The invalidity of any section or parts thereof shall not affect or render the remainder of the act invalid or inoperative, it being the intent of the Legislature that each separate portion of this act would have been adopted independently of any other portion or section thereof.

All Credit Unions incorporated and authorized under the jurisdiction of the Division of Banking in existence at the

time this Act becomes effective, shall conform to all of the provisions of this Act within twelve months from the day this Act becomes effective and the failure thereof shall fully justify the Director of the Division of Banking to institute action for revocation of authority to continue operation.

It being the desire of the Legislature to regulate effectively the business of credit unions, an emergency is declared to exist, and it is enacted that this act shall become effective immediately upon its passage and approval by the Governor.

By same.

H. B. 325. AN ACT, relating to the sale and transfer of wages, amending and re-enacting section 4758a-5 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 5 of Chapter 126 of the Acts of 1912, as amended by Chapter 36 of the Acts of 1918, the same being Section 4758a-5 of Carroll's Kentucky Statutes, 1936 Edition, be amended by adding thereto after the words "state banks", the words "credit unions". So that as amended the said Section 4758a-5 of Carroll's Kentucky Statutes, 1936 Edition, will read as follows:

National banks and all state banks, credit unions and trust companies shall be exempt from the provisions of this Act.

§ 2. All laws in conflict herewith are hereby repealed.

By Mr. Leonard.

H. B. 326. An Act relating to revenue and taxation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4281c-19 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

For the purpose of assisting in the enforcement of Chapter 1, Acts of the Third Extraordinary Session of the 1936 General Assembly or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said Act or any amendments thereof, shall, on or before the fifteenth day of each month, render to the Department of Revenue a sworn or affirmed statement in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on form furnished by the Department of Revenue, such information as shall be required by it. Such statement shall include alcohol destined for sale outside the State, as well as alcoholic beverages subject to the tax imposed by Chapter 1, Acts of the Third Extraordinary Session of the 1936 General Assembly or any amendments thereof. Provided, that the Department of Revenue shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of Chapter 1, Acts of the Third Extraordinary Session of the 1936 General Assembly or any amendments thereof.

By Mr. Daugherty.

H. B. 327. An Act to create exporter's license and providing for the sale and export of distilled spirits and wine; requiring license therefor and fixing the amount of license fees; defining the transactions permitted and prohibited to export licensees; specifying location of premises; providing for the payment of supervision and inspection fees and the

purpose and use thereof; providing for the manner of shipment and for a special transporter's license and the issuance thereof and fixing the amount and payment of the fee; fixing requirements for keeping records and filing reports; imposing prohibitions, regulations and restrictions on the holders of export licenses; fixing penalties for violation of this Act; repealing inconsistent laws; adopting for purposes of interpretation and administration of the alcoholic beverage control law of 1938, being Chapter 2 of the Acts of the 1938 General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Exporter's License.*—There is hereby created an exporter's license the fee for which shall be One Thousand ($1,000.00) Dollars which shall be paid to the Department of Revenue and shall expire on June 30th of each year. Such license fees may be probated in the manner provided by Section 2554b-117 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes. The said Department of Revenue shall issue such license upon the proper application therefor.

§ 2. *Business Authorized by Export Licensee.*—The exporter's license shall authorize the holder thereof to purchase, receive, store and possess distilled spirits and wine and to sell same in quantities of not less than five case lots from the licensed premises only.

§ 3. *Transactions Permitted and Prohibited to Export Licensees.*—The holder of an export license may sell and deliver distilled spirits and wine in not less than five case lots and from the licensed premises only to:

(a) Licensed distillers, rectifiers, vintners, blenders, exporters and importers providing no sale shall be made to any licensed wholesaler except by way of return of merchandise or in liquidation;

(b) Distillers, rectifiers, blenders, vintners and importers who are duly licensed by the laws of the State of their residence and by the Federal Government to receive same;

(c) Wholesalers and Retailers located outside of the State of Kentucky and for consumption outside of the State of Kentucky. No sale shall be made by any export licensee to any person not holding a Federal permit or occupational tax stamp for the type of business conducted by said purchaser; and where the State of the purchaser's residence provides for the sale of distilled spirits and/or wine for beverage purposes and issues a State license for the sale of distilled spirits and wine, said purchaser shall hold a license issued by such State authorizing such purchaser to sell said distilled spirits and wine so purchased. Provided, however, that nothing in this section shall be construed to prevent the sale of distilled spirits and wine to persons holding a Federal permit or stamp in any state that provides for the sale of such spirits and wine for beverage purposes only in subdivisions of the state which by referendum or election specifically authorize this traffic; and, provided, however, that no sales shall be made into any such subdivisions of any such State after the said State and the Federal Government shall have regularly licensed persons to engage in the sale of distilled spirits and wine in that subdivision, save and except the purchaser be the holder of a Federal stamp and State license authorizing the purchaser to receive the distilled spirits and wine so purchased.

No export licensee shall sell or contract to sell, give away or deliver any distilled spirits or wine to any person in Kentucky not specifically permitted and named in this section.

Export licensees may purchase and receive distilled spirits and wine from distillers, rectifiers, blenders, importers, vintners, exporters and wholesalers licensed by the Commonwealth of Kentucky or from non-residents duly author-

ized by the laws of the State of their residence and by the Federal Government if located in the United States, to make sales. Export licensees are hereby prohibited from transporting distilled spirits or wine from any point.

§ 4. *Special Fees, Transportation, Licenses, Regulations, Privileges, Limitations and Prohibitions Relating Only to Export Licensees.*

(a) *Location of Premises;* The premises of all export licensees shall be located within ten miles by Federal highways of the Kentucky border and within a municipal corporation with a population of not less than three thousand inhabitants, and no premises used by the exporter shall be used for any other commercial purpose whatsoever;

(b) *Supervision and Inspection Fees to be Paid by Export Licensees;* It appearing that said export licensees will require supervision and services from the Department of Revenue not required by other persons licensed under the provisions of the Alcoholic Beverage Control Law of 1938, which duties and services cannot be performed by the regular field representatives, and that additional field representatives will be required, and each exporter shall therefore pay an inspection and supervision fee of twenty-five cents upon each case of distilled spirits or wine sold by said export licensee, said twenty-five cents per case supervision and inspection fee to be paid at the time set forth in Section 4281c-19 of Carroll's Kentucky Statutes, or amendments thereto, which provides for the filing of monthly reports and shall be paid to the Department of Revenue and disbursed as provided in Section 5 hereof;

(c) *Manner of Shipment from Premises of Export Licensee;* Shipment of distilled spirits and wine shall in no event be made by an export licensee except by common carrier (no exporter shall own any truck or conveyance of any kind, character or description whereby he may export distilled spirits or wine into any other state); but nothing in this sec-

tion of the law or any section of the Alcoholic Beverage Control Law of 1938, or any regulation thereof or hereunder, shall prohibit a purchaser from the exporter from transporting his own purchase in a conveyance of his (purchaser's) own, or by any person under contract to said purchaser; provided the purchaser, or his agent, is the holder of a special temporary transporter's license which shall be issued by a representative of the Department of Revenue as provided in Section (e) hereof. It shall be prima facie evidence of illegal transportation for any purchaser of distilled spirits or wine for any conveyance carrying purchaser's merchandise to proceed except by direct route to the address which purchaser furnished by affidavit as provided in Section (d) hereof.

No distiller, rectifier, blender, wholesaler or other licensee shall load (or permit to be loaded at its premises) any purchase made by any purchaser upon order from an exporter under any circumstances whatsoever;

(d) *Special Affidavit and Record to be Made;* Every sale made by an exporter shall be recorded under oath of the purchaser or his agent on a blank, the form of which shall be prescribed by the Department of Revenue. This blank shall show (1) the amount of the sale (number of cases), (2) the serial number of each of said cases, (3) the brand of each case, (4) the name of the purchaser, (5) the address of the purchaser, (6) the date of the sale, (7) the name and Federal stamp or license number of the exporter, (8) statement that purchaser is a holder of a Federal permit or stamp and a state license if required by the state wherein his business is located, and (9) the license number of the conveyance used in transporting such spirits.

Should any exporter fail to secure said affidavit or to supply the representative of the Department of Revenue with two copies of the same he shall be prima facie guilty of making a sale to a person in Kentucky and such failure shall render

the license of said exporter liable to suspension or revocation; and said export licensee shall be required to pay to the State of Kentucky the consumer's tax on distilled spirits as provided for in Section 4281c-4, or any amendments thereto, of Carroll's Kentucky Statutes, and the consumer's tax on wine as provided in Section 4281c-3, and all amendments thereto, of Carroll's Kentucky Statutes, so vended.

The record of each such sale as prescribed in this section shall be executed by the purchaser or his agent at the licensed premises of the export licensee and delivered immediately to the representative of the Department of Revenue for the purposes set out in Section (e) hereof. Another copy shall be preserved in serial order for at least two years. In every other respect the export licensee shall be required to make the same reports, supply the same information and submit to the same examinations, additional to those set out in this section, as are now prescribed by the Alcoholic Beverage Control Law of 1938 with respect to wholesalers of distilled spirits.

(e) *Export Licensee May Not Purchase Excise Stamps;* No export licensee shall have any right to purchase Kentucky excise tax stamps to be attached to merchandise and it is provided that sales made in the manner and to the persons above described shall not be subject to the State Tax required under Section 4281c-4 and Section 4281c-3, and any and all amendments thereto, of Carroll's Kentucky Statutes. However, samples distributed shall invariably bear a consumer's tax stamp as required under the aforesaid sections of Carroll's Kentucky Statutes;

(f) *Bond Required of Export Licensees;* Every export licensee shall before a license is issued file with the Department of Revenue a corporate surety bond conditioned that the licensee will pay taxes and penalties and interest thereon of whatever kind or character for which he may be liable to the Commonwealth of Kentucky, or any municipal corporation or taxing subdivision thereof. The surety and amount

of the bond shall meet the qualifications specified for a wholesale licensee's tax bond as set forth in Section 2554b-135 of Baldwin's 1938 Revision of Carroll's Kentucky Statutes. The initial bond required of each export licensee is hereby fixed at Ten Thousand ($10,000.00) Dollars.

No licensee may continue in business unless said bond is in effect at all times.

(g) *Records to be Kept by Export Licensee and Inspection Thereof;* Each exporter licensed under this Act shall keep and maintain on the licensed premises full complete records of each and every transaction in which he engages. Said bookkeeping system and books and records shall be approved by the Department of Revenue prior to installation by said export licensee. Such books and records shall be available at all reasonable times for inspection by any authorized representative of the Department of Revenue.

(h) *Form of License;* The form of license to be issued to export licensees shall be the same as now provided by Section 2554b-1 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes and any amendments thereto. Said export license shall carry the legend "This license is issued for the export business only and does not authorize sales to be made to residents of Kentucky".

(i) *Closing Hours;* Export licensees shall in no event traffic any alcoholic beverages on Sunday nor during the time the polls are open on any regular slection day but may operate twenty-four hours a day on any other day.

(j) *Sales for Cash Only;* Sales by export licensees shall be made for cash only.

(k) *Waiting Period and Advertising;* No waiting period or advertisement of intention to apply for an exporter's license shall be required prior to the issuance of any exporter's license.

(l) *Special Transporter's License and the Issuance Thereof;* Shipment or transportation of said distilled spirits

or wine shall in no event be made by said exporter except by common carrier; but nothing in this Act shall prohibit a purchaser from transporting his purchases in a conveyance of his (the purchaser's) own, or by any person under contract to said purchaser; provided the purchaser, or his agent, is the holder of a special temporary transporter's license which shall be issued as herein provided.

The Commissioner of Revenue shall designate representatives, one of whom shall be subject to call at each of the licensed premises during the entire twenty-four hours of each working day, which representative is hereby authorized to issue a special temporary transporter's license in such form as the Board may prescribe authorizing the holder thereof to transport the same distilled spirits or wine, which is covered by the invoice and affidavit provided for in Subsection (d) of Section 4 hereof over a specified route and within a given period of time which in no event shall exceed eight hours. The transportation of any distilled spirits which have been purchased from an export licensee by any person not holding a special temporary transporter's license shall be deemed a violation of this Act and of the Alcoholic Beverage Control Law.

The fee for such special temporary transporter's license shall be fifty (50¢) cents, and the license shall expire on the date and hour specified on the license. Any purchaser who has completed the affidavit provided for in Subsection (d) Section 4 hereof shall be deemed to have filed an application for a special transporter's permit, and such affidavit shall be accepted by the representative of the Department of Revenue in lieu of an application for the special temporary transporter's license.

§ 5. *Methods of Handling Fees Paid.*—The supervision and inspection fees required to be paid by export licensees under Subsection (b) of section 4 hereof, and the fee for special temporary transporter's license required to be paid

under Subsection (1) of Section 4 hereof shall each be paid to the Department of Revenue and by the Department transferred and paid to the Treasurer of the State of Kentucky and credited to the general fund; upon proper requisition, however, of the Department of Revenue the Commissioner of Finance shall pay or cause to be paid to the representatives of the said Department of Revenue the salaries and expenses of the field representatives provided for in this Act. Said Department of Revenue is hereby authorized to employ sufficient personnel to adequately supervise and inspect the business authorized by the holder of an export license and a special temporary transporter's license, and it is the intention of this Act that the supervision and inspection fees and the fees for special temporary transporter's license shall be used for the purpose of defraying all salaries and expenses incurred in the supervision and inspection of all licenses authorized by this Act and that after the payment of said salaries and expenses, as herein provided, that the remainder of said fees so paid shall be credited to the general fund.

§ 6. *Penalteis.*—Unless otherwise specifically provided in this Act the penalties for the violation of this Act shall be the same as imposed under Section 2554b-195 and 196 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes, being the provisions of the Alcoholic Beverage Control Law.

§ 7. *Reference to Alcoholic Beverage Control Law of 1933.*— Except as otherwise herein specifically provided this Act shall be administered in the manner provided for the regulation and supervision of licensees authorized under the Alcoholic Beverage Control Law of 1938 and for the purpose of the administration, construction and interpretation of the provisions of this Act, the 1938 Alcoholic Beverage Control Law, being Chapter 2 of the Act, the 1938 General Assembly, now compiled as Section 2554b-98 to 2554b-22 inclusive, of Baldwin's 1938 Supplement of Carroll's Kentucky Statutes,

and any and all amendments thereto, be and the same is hereby referred to and adopted.

§ 8. *Repealing Clause.*—All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Easley.

H. B. 330. An Act relating to revenue and taxation, and providing for a corporation license tax for certain corporations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4189-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4189-1. *License tax on corporations.* Every corporation organized by or under the laws of this or any other state or government, owning property or doing business in this state, except foreign insurance companies, whether fire, life, accident, casualty or indemnity, domestic life insurance companies, foreign and domestic building and loan associations, banks and trust companies, and corporations which, under existing laws, are liable to pay a franchise tax, shall pay to the Commonwealth of Kentucky, to be credited to the general expenditure fund, an annual license tax based upon the value of its capital stock, as hereinafter provided.

§ 2. Section 4189-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4189-2. *Amount of tax; how ascertained.* (1) Every corporation not exempted by section 1 hereof shall pay an annual license tax of seventy cents ($0.70) on each one thousand dollars of that part of the value of its capital stock represented by property owned and business transacted in

this state, which shall be ascertained by finding the proportion that the property owned and business transacted in this state bears to the aggregate amount of property owned and business transacted in and out of this state.

(2) The corporation may pay at said rate upon the entire value of its capital stock; and in that event it shall not be required to report as in subsection (2) of section 3 hereof. Its failure so to report shall be conclusive evidence that the corporation elects to pay upon the entire value of its capital stock, and it shall do so, and the Department of Revenue shall fix its taxable value.

§ 3. Section 4189-3 of Carroll's Kentucky Statutes, 1936 edition, is repealed, amended, and re-enacted, to read as follows:

4189-3. *Reports to Department of Revenue.* In order to ascertain the amount of taxes due and payable by such corporations now owning property or transacting business in this state, every such corporation shall file with the Department of Revenue each year, on forms prepared by the Department, a written report, verified by the affidavit of the president or secretary of the corporation, which report shall give the following information:

(1) The name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and post office address of the president and secretary; the name and post office address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of its officer or agent in charge of its business in this state; and the nature and kind of business in which the corporation is engaged.

(2) The total value of all the property owned and used by the corporation, and the value and location of the property owned and used by the corporation in Kentucky; the aggregate amount of business transacted by the corporation during

the preceding year ending the 31st day of December, or date upon which its fiscal year ends, and the amount of such business transacted in this state; and such other facts bearing on proper taxation as the Department of Revenue requires.

§ 4. Section 4189-4 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4189-4. *Secretary of State to report to Department of Revenue name and address of corporation.* It shall be the duty of the Secretary of State to certify to the Department of Revenue the names and addresses of all corporations coming within the purview of this Act, and also the names and addresses of their designated agents upon whom process may be executed, that now or may hereafter appear upon the records of his office.

From such certification and from the records of its own office, the Department of Revenue shall notify each corporation required to report under this act and to furnish blanks upon which to make the reports, not later than February fifteenth in each year. Proof that such notice and blanks have been deposited in the United States mail duly stamped and addressed to the person last designated as the person upon whom process may be served, shall be conclusive evidence that such notice to report was given to the corporation; provided this duty shall in no manner diminish the obligation of the taxpayer to file a return without being called upon to do so.

§ 5. Section 4189-5 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4189-5. *Period covered by reports; time of filing.* Corporations required to report under this Act shall file such reports, covering their operations for the preceding calendar year ending December 31, on or before the 15th day of April in each year; except that such reports, if made on the basis of a fiscal year, shall cover operations for the twelve months preceding the close of the fiscal year, and shall be filed on or

before the 15th day of the fourth month following the close of such fiscal year.

Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make such reports to the Department of Revenue in the manner provided in this Act, on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state; and shall in all respects be subject to the provisions of this Act the same as corporations already in existence at the time of its passage.

§ 6. Section 4189-6 of Carroll's Kentucky Statutes, 1936 edition, is repealed and the following is enacted in lieu thereof:

4189-6. *Method of assessment; notice; time of payment of tax.* It shall be the duty of the Department of Revenue, from the reports and from any additional information it may secure, to ascertain and fix the fair value of that part of the capital stock of such corporations upon which the license tax herein provided shall be based. The Department of Revenue in arriving at the value of the capital stock of such corporations may consider its market value, book value, earnings or any other recognized criteria, or combination of criteria, of value; and may in any case require such additional information as it deems necessary to enable it to perform its duties under this Act. It shall be the duty of the Department of Revenue to notify every such corporation of the amount so assessed, by placing the notice of assessment in the United States mails and the corporation shall have thirty days from the date of notice of assesment in which to pay the tax to the Department of Revenue, Frankfort, Kentucky, by check or money order payable to the Kentucky State Treasurer, or to protest the assessment to the Department of Revenue. After the protest has been acted upon by the Department of Revenue the corporation protesting shall have fifteen days in which to

pay the tax found to be due or to appeal as provided for in sections 5 and 5a of Chapter 4 of the Acts of the first extraordinary session of the 1938 General Assembly.

§ 7. A new section of Carroll's Kentucky Statutes is created to be numbered and read as follows:

4189-7. *First report on fiscal year basis; change in reporting period.* (1) The first report to be filed by a corporation operating upon a fiscal year accounting basis shall be filed on or before the first filing date after the effective date of this Act. This return shall cover the operations for the entire year preceding the close of the fiscal year accounting period; and the assessment of value shall be computed in the same manner as on any other return; however, the tax due shall be computed on that proportionate part of the year that the period from January 1, 1940, to the close of the fiscal year, bears to an entire twelve month period.

(2) A corporation may change its reporting period from a calendar year to a fiscal year or from a fiscal year to a calendar year by securing written permission from the Department of Revenue. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return; however, the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve month period.

§ 8. Section 4189-8 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4189-8. *Minimum fee.* No corporation required to pay an annual license tax under this Act shall pay a less sum therefor than ten ($10.00) dollars.

§ 9. Section 4189-9 of Carroll's Kentucky Statutes, 1936 edition, is repealed and there is enacted in lieu thereof the following:

4189-9. *General laws applicable to this Act.* The provisions of the Act of 1938, first extraordinary session, Chater 4 apply to this Act, and if a corporation fails to file a report required by this Act the Department of Revenue may make an assessment as provided in 1938, first extraordinary session, Chapter 4, section 9.

§ 10. Section 4989-9 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

§ 11. *Construction of law; effect of partial invalidity.* The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional, the decisions of the courts shall not effect or impair any of the remaining provisions of this Act. It is hereby declared as a legislative intent that this Act would have been adopted had such unconstitutional provisions not been included therein.

§ 12. The present uncertainty with respect to the interpretation of the law governing corporation license tax constitutes an emergency, and this Act shall become a law and be effective on its passage and approval by the Governor.

By Mr. Lyon.

H. B. 331. An Act relating to school districts and subdistricts, and ameding sections 4399-6 and 4399-7 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4399-6 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Subdistricts of county school districts. In every county

school district which is not divided into subdistricts, the county board of education shall, immediately after this Act takes effect, divide the county school district into three or more subdistricts. The county board of education may change the boundaries of any subdistrict, establish new subdistricts, unite subdistricts or parts of subdistricts, or discontinue subdistricts, subject to the following limitations:

(1) The county board of education has no power to abolish all subdistricts in the county district.

(2) The number of subdistricts in any county district shall never be less than three.

(3) No subdistrict shall exist which has less than twenty-five white census pupils residing therein.

(4) The State Board of Education, upon application of a county board of education, may authorize for periods of one year the maintenance of emergency subdistricts having less than twenty-five white census pupils residing therein.

(5) The boundary of any independent school district which becomes a part of a county school district as the result of this Act shall not be reduced or the district abandoned as a subdistrict, except upon the approval of the State Board of Education.

(6) The boundary of a subdistrict having a bonded indebtedness shall not be extended except upon a favorable vote of two-thirds of the voters in the territory proposed to be added to the subdistrict. All subdistrict tax levies authorized before the extension of the boundary shall continue to be collected for the benefit of the subdistrict for which they were levied, until the expiration of the time for which the levy was made, and any such subdistrict tax may be removed by the vote of the people in the same manner as it was authorized.

(7) The boundary of a subdistrict which levies a tax for purposes other than for bonds may be extended by the

county board of education upon the request of a majority of the voters in the territory proposed to be added.

§ 2. Section 4399-7 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Subdistrict trustees; election; term; qualifications. (1) In each subdistrict created pursuant to this Act in county districts which had no subdistrict trustee when this Act first took effect, one subdistrict trustee shall be elected on the second Saturday in July, 1940, for a term beginning on the third Saturday in July, 1940, and continuing for two years, or until his successor is qualified. In each subdristrict already having a subdistrict trustee, the trustee, or any trustee filling the vacancy left by him, shall serve until his term expires in 1942.

(2) In each subdistrict in the State one subdistrict trustee shall be elected on the second Saturday in July, 1942, and on the same date every second year thereafter for a term beginning on the third Saturday in July of the same year and continuing for two years, or until his successor is qualified.

(3) Each candidate for subdistrict trustee shall be at least twenty-five (25) years of age and shall have resided in the subdistrict for at least six-months prior to the date of election.

§ 3. WHEREAS, this Act is intended to work a needed change in the organization of county school districts, and it is desirable that it take effect sufficiently early to allow preparations for the July elections to be made, an emergency is declared, and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. J. Lee Moore.

H. B. 332. AN ACT providing the method of recording mortgages executed by corporations authorized to operate

railroads, motor transportation lines, electric light, heat and power plants, water plants, telegraph and telephone lines, and providing that such recording shall be effective against purchasers without notice and creditors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Mortgages executed by corporations authorized to operate railroads, motor transportation lines, electric light, heat and power plants, water plants, telegraph and telephone lines, which cover right-of-ways, franchises, pipe lines, pole lines, easements, railroad tracks, engines, cars, motor equipment or any tangible personal property shall be duly acknowledged as now required by law and recorded as mortgages on real estate are now required to be recorded in the county in which the principal office of the corporation is located. Provided, however, if said mortgage covers other real estate in addition to right-of-ways, franchies, pipe lines, pole lines, easements, railroad tranck, engines, cars, motor equipment or tangible personal property, then said mortgage shall also be recorded in each county in which such real estate is located. When such mortgage is lodged for record, as herein provided, it shall be effective against purchasers for a valuable consideration without notice and creditors as defined in Section 496, Carroll's Kentucky Statutes, 1936 Edition.

§ 2. All laws or parts of laws in conflict herewith are repealed.

§ 3. Inasmuch as some doubt exists as to how mortgages referred to in Section 1 hereof should be recorded, and it is advisable that the method of so recording such mortgages be distinctly set out, an emergency is declared to exist and this act shall take effect from and after its passage and approval as required by law.

By same.

H. B. 333. AN ACT authorizing corporations to borrow money and to execute mortgages to secure the money so borrowed and providing how such mortgages shall be authorized.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any corporation may, subject to the provisions of Section 3952-24, Carroll's Kentucky Statutes 1936 Edition, by a vote of a majority of its Board of Directors borrow money and execute its bonds and notes therefor and to secure the payment of such bonds or notes, which may be in a fixed amount or in the amounts to be from time to time determined by the Board of Directors of the corporation, may mortgage any and all of its property, rights, privileges and franchises, which it may then own or thereafter acquire, and such mortgages may contain such provisions as the Board of Directors of the corporation may deed advisable.

§ 2. All laws or parts of laws in conflict herewith are hereby repealed.

By same.

H. B. 334. AN ACT to amend and re-enact section 883b-3 of the Kentucky Statutes, Carroll's Edition 1936.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 883b-3 of the Kentucky Statutes, Carroll's Edition 1936 be amended so that when amended Section 883b-3 shall read as follows:

"No such sale shall be valid unless consented to by the

holders of not less than three-fourths (¾) of the capital stock of the vendor corporation which consent shall be given either in writing or by vote at a special meeting of the said stockholders called for that purpose upon the same notice as that required for the annual meetings of the corporation, which notice shall clearly state the purpose for which the meeting is called. Any stockholder of the vendor corporation may notify its secretary in writing on or before the date of such meeting that he objects to the proposed sale. If the proposed sales shall be sonsummated, the vendee, therein thirty (30) days thereafter, upon the demand of such dissenting stockholder and upon his surrender of his stock therein to the vendor corporation for cancellation, shall pay to such dissenting stockholder the market value of his stock, which shall in no event be less than the book value of said stock, according to the last balance sheet of the selling corporation. Any amount so paid by the vendee to dissenting stockholders shall be deducted from the purchase price of the property in question. Nothing in this section shall apply to mortgages or deeds of trust executed by corporations.''

§ 2. All laws or parts of laws in conflict herewith are repealed.

By Mr. Savage.

H. Res. 50. RESOLUTION authorizing Ollie W. Moreland to file suit against the Commonwealth of Kentucky and the State Highway Commission and the Department of Highways, or any one or more of them.

Said resolution is as follows, viz.:

WHEREAS, on October 22, 1938, on the State Highway No. 60, between Lewisport and Hawesville in Hancock County, Kentucky, a pull grader and caterpiller tractor owned by the Commonwealth of Kentucky, and at the time being used and operated on said highway by the employees of the State High-

way Commission in maintaining said highway, was on said highway at said time and place, and while using said highway Ollie W. Moreland ran into said grader, thereby severly injuring him through the alleged carelessness and negligence of the employees of the Kentucky State Highway Commission.

NOW, in order that said Ollie W. Moreland may have his day in court to determine by judicial action the question of negligence, if any, causing said injuries aforesaid.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That Ollie W. Moreland, or in the event of his death before or during the prosecution of this action to its final conclusion his executor or administrator, be and he is hereby empowered and authorized to file and prosecute appropriate actions against the Commonwealth of Kentucky and the State Highway Commission and the Department of Highways, or any one or more of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission and the Department of Highways, or any one or more of them, for such injury, if any there be; and in the event any judgment in the action is recovered by said Ollie W. Moreland, or same be compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer, and paid out of the general fund. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Said action may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be $5,000.00. The statute of limitations shall not begin to run in favor of the Commonwealth of Kentucky until this Act becomes effective.

By Mr. Morgan.

H. Res. 51. Resolution authorizing and empowering John M. Campbell, Owsley county to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, during the years 1936, 1937 and 1938, John M. Campbell did own and was in possession of a valuable tract of land in Owsley County, Kentucky, at, near and on a certain bend of the Kentucky River, which land was of rich and alluvial soil, and had a substantial dwelling and other buildings thereon, and

WHEREAS, the Commonwealth of Kentucky and the Department of Highways of said Commonwealth, did construct a bridge across said river, and the construction thereof, the said defendant, the Commonwealth of Kentucky and its codefendant, the Department of Highways (did so negligently construct same as to divert the natural, ordinary and immemorial flow of said river as to throw the force of the current of said river against and on the above named property, causing said dwelling to be destroyed, and the said lands to be washed away and destroyed to a great extent its value as residential and farming property, all of which was done by and through the said Commonwealth of Kentucky and its said agent, the Department of Highways, and by said negligence and said construction, the property of the claimant, John M. Campbell has been permanently damaged, and that the damage is irremediable and cannot be repaired, and that said land and houses have been damaged in the sum of Two Thousand and Five Hundred ($2,500.00) Dollars; now in order that said John M. Campbell may determine all his rights by and through the courts of justice caused as aforesaid,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That John M. Campbell, a citizen and resident of Owsley County, Kentucky, be empowered and authorized to file suit against the Commonwealth of Kentucky and the Department of Highways thereof, for such damage, if any there be for $2,500.00, arising from the negligent acts of said defendants which caused him to be damaged as aforesaid; and in event there is a recovery against either or both of said defendants, or if same is compromised and settled, or if a judgment be obtained through courts, or by compromise, the amount agreed upon shall be paid by warrant drawn upon the State Treasury by the Commissioner of Finance and paid out of the General Fund.

§ 2. Said action may be brought in any county of this Commonwealth having jursidiction of the parties and subject-matter. Either party to any suit brought under this resolution may appeal from any judgment that may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other suit.

By Mr. Lee.

H. Res 52. A RESOLUTION appropriating one hundred and thirty-six dollars to Estelle Koger for services rendered to the Wayne County Board of Education.

Said resolution is as follows, viz.:

WHEREAS, Estelle Koger was employed by the Wayne County Board of Education to teach in Gophertown school for a term of seven months during the school year 1928-1929 at a salary of sixty-eight dollars per month; and

WHEREAS, Said Estelle Koger rendered capable, efficient, and satisfactory services in the aforesaid school, but due to a technicality in the certification law which prevented the validation of said Estelle Koger's certificate during

the first two months of the term, the Wayne County Board of Education refused to pay him for the first two months; and

WHEREAS, Said Board of Education knew of the defect in the certificate at the time it employed Estelle Koger, and employed him with the understanding that his certificate would be validated as soon as possible; and

WHEREAS, The certificate was accordingly validated and the Wayne County Board of Education received the benefits of his services but refused to pay him for two of his seven months of service, NOW THEREFORE

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated from the General Expenditure Fund of the State the sum of one hundred and thirty-six dollars to be paid Estelle Koger for services rendered to the Wayne County Board of Education in the Gophertown school of Wayne County, Kentucky, as a teacher for the first two months in the school term of 1928-1929.

By Mr. Anderson.

H. Res. 53. RESOLUTION authorizing S. H. Etherly to sue the Commonwealth of Kentucky and the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, on the 12th day of August, 1937 at or about the hour of 9:45 A.M., about two miles northwest of Shelbyville, Kentucky, on the public highway between Shelbyville and Louisville, Kentucky, in a collision between a truck owned by the State of Kentucky, then being operated, managed and controlled and used by an employee of the State Highway Commission of the Commonwealth of Kentucky in the performance of his duties on the State Highway between Louisville and Shelbyville, and an automobile owned and

operated by S. H. Etherly, the said S. H. Etherly was injured, and

WHEREAS, S. H. Etherly sustained serious and permanent personal injuries and property damage by reason of the alleged carelessness and negligence of the employees of the State Highway Commission in the conduct of the business of the State of Kentucky.

NOW, in order that S. H. Etherly may have his "Day in Court" to determine by judicial action the question of negligence, if any, of the employees of the State Highway Commission of the State of Kentucky, causing the injuries and damages aforesaid.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That, S. H. Etherly, in his own right and name, be and he is hereby empowered and authorized to file and prosecute appropriate actions against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Highway Commission, or either, for such injuries and damages, if any there be; and in the event any judgment in either action is recovered by said S. H. Etherly, or same are compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the general fund.

Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as in any other civil case.

Said actions may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability as to S. H. Etherly shall be Six Thousand ($6,000.00) Dollars.

By same.

H. Res. 54. RESOLUTION authorizing Robert Burt of Louisville, Kentucky, to sue the Commonwealth of Kentucky and the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, during the years of 1936 and 1937 the Commonwealth of Kentucky through the State Highway Commission made certain changes as to the grade of the road and the road on the Shelbyville Road at or near the Chenoweth Lane in St. Matthews, Kentucky, and

WHEREAS, the said Robert Burt was at said time the owner of a certain plot of land with the improvements thereon at or near the point hereinabove mentioned, which land was improved and was at said time being used and operated as an oil station, and

WHEREAS, without the consent or an agreement from the said Robert Burt, the said Commonwealth of Kentucky through the State Highway Commission, did at said point change the grade of said road especially in front of the property line of his property, and

WHEREAS, by excavating and changing said road and its grade said property was affected so that same could not be used for the purpose intended nor for any other purpose and was depreciated and completely destroyed, this claimant, Robert Burt, was caused to lose a tenant and to rebuild said building and to replace sewerage and electrical appliances, all of which damaged claimant, Robert Burt, in the total sum of $8,991.03.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Robert Burt in his own right and name be and he is hereby empowered and authorized to file and prosecute appropriate actions against the Commonwealth of Kentucky and the

State Highway Commission, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such damages, if any there be, and in the event any judgment in either action is recovered by said Robert Burt, or same be compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the general fund.

Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same ways as in other civil cases.

Said actions may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability as to Robert Burt shall be Eight Thousand nine hundred ninety-one dollars and three cents ($8,991.03.)

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions heretofore introduced or reported from the Senate, as follows, viz.:

H. B. 272. To Committee on Education No. 1-A.

H. B. 273. To Committee on Kentucky Statutes No. 1.

H. B. 274. To Committee on Banks and Banking.

H. B. 275. To Committee on Judiciary.

H. B. 276. To Committee on Alcoholic Control No. 1.

H. B. 277. To Committee on Revenue and Taxation No. 1.

H. B. 278. To Committee on Insurance, Life and Casualty.

H. B. 379. To Committee on Judiciary.

H. B. 280. To Committee on Revenue and Taxation No. 1.

H. B. 281. To Committee on Fish and Game No. 1-A.

H. B. 282. To Committee on Kentucky Statutes No. 1.

H. B. 283. To Committee on State Properties.

H. B. 284. To Committee on Alcoholic and Liquor Control No. 1.

H. B. 285. To Committee on County and City Courts.

H. B. 286. To Committee on Revenue and Taxation No. 1.

H. B. 296. To Committee on Judiciary.

H. Res. 43. To Committee on Claims.

H. Res. 44. To Committee on Claims.

H. Res. 45. To Committee on Claims.

H. Res. 46. To Committee on Claims.

H. Res. 47. To Committee on Appropriations No. 1-A.

H. Res. 48. To Committee on Appropriations No. 1-A.

S. B. 18. To Committee on Judicial Council.

S. B. 24. To Committee on Agriculture No. 1.

S. B. 46. To Committee on County and City Courts.

S. B. 29. To Committee on Kentucky Statutes No. 1.

H. B. 298. To Committee on Revenue and Taxation No. 1.

H. B. 299. To Committee on Banks and Banking.

H. B. 300. To Committee on Fish and Game No. 1-A.

H. B. 301. To Committee on Roads and Highways No. 1-A.

H. B. 302. To Committee on Kentucky Statutes No. 1.

H. B. 303. To Committee on Revenue and Taxation No. 1-A.

H. B. 304. To Committee on Revenue and Taxation No. 1-A.

H. B. 305. To Committee on Judicial Council.

H. B. 306. To Committee on Judiciary.

H. B. 307. To Committee on Revenue and Taxation No. 1.

H. B. 308. To Committee on Kentucky Statutes No. 1.

H. B. 309. To Committee on Kentucky Statutes No. 1.

H. B. 310. To Committee on County and City Courts.

H. B. 311. To Committee on Appropriation No. 1.

H. B. 312. To Committee on Revenue and Taxation No. 1-A.

H. B. 313. To Committee on Kentucky Statutes No. 1.

H. B. 314. To Committee on Kentucky Statutes No. 1.

H. B. 315. To Committee on Public Health No. 1.

H. B. 316. To Committee on Public Health No. 1.

H. B. 317. To Committee on Agriculture No. 1.

H. B. 318. To Committee on Fish and Game No. 1.

H. B. 319. To Committee on Fish and Game No. 1.

A message was received from the Senate announcing that they had passed bills which originated in that body entitled:

S. B. 108. AN ACT to amend Section 2925 of Article 19, Chapter 89 of the Acts of the General Assembly of 1902, relating to the appointment, powers and compensation of a Pro Tem. Judge of the Police Court in cities of the first class, being Section 2925, Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2925 of Chapter 19 of the Acts of the General Assembly of 1902, which is known as Section 2925, Kentucky Statutes, Carroll's Edition, 1936, be amended, repealed and reenacted so as when amended and reenacted the same shall read as follows:

The Mayor of a city of the first class, is hereby authorized to appoint a Judge Pro Tem. of the Police Court who shall hold office at the pleasure of the Mayor, and shall have the same rights, powers and duties as the regular

judge has, when from any cause or reason, the regular judge of said Court shall fail to attend and to hold court, or for any cause or reason vacates the bench. Said Judge Pro Tem. shall be prohibited from practicing any case in said Court.

The Judge Pro Tem. must prossess the same qualifications of the regular judge, and shall receive a salary of $3000.00 per annum, payable by the city, semi-monthly.

Whereas, in every city of the first class the Judge of the Police Court thereof is required to try each day hundreds of cases; and

Whereas, the present judges are unable, because of the pressure of business, to properly transact it; and

Whereas, said judges have had voluntary help by the appointment of judges pro-tem of said courts; and

Whereas, there is now by law no provision for the transaction of such judges pro-tem in said courts, an emergency is hereby declared to exist, and this Act shall become immediately effective after its passage and approval by the Governor.

S. B. 65. AN ACT amending and re-enacting section two thousand four hundred and twenty six a (2426a) of article two (2) of chapter seventy seven (77) of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section two thousand four hundred and twenty six a (2426a) of article two (2) of chapter seventy seven (77) of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, be amended and re-enacted to read as follows:

"That the State Librarian be and he is hereby required and directed to furnish to the Law Library of the University of Kentucky, free of cost and as they are published, three (3)

copies of the Acts of the General Assembly, two (2) copies of the Journals of the House and Senate, twelve copies of the Kentucky Reports, and twelve copies of the Advance Sheets of the Kentucky Reports. Said Librarian is further directed to furnish to the Law Library of the University of Kentucky, free of cost, the following published reports: four (4) sets of Kentucky Reports beginning with volume 78, two sets of Kentucky Reports begininng with volume 229, and one each of Volumes 133, 205, 216, 217, 219, 222, 223, 224, 225, 226, 227 and 228 of the Kentucky Reports.''

S. B. 20. AN ACT to provide for the appointment of a receiver of any corporation authorized to do business in this state and to collect, protect and preserve its assets and continue its business at a suit of creditor or stockholder on the ground of fraud, mismanagement, waste or dissipation of its assets by its directors, or corporate officers and to recover such assets from any officer or agent thereof and defining the rights and duties of such receiver and the county in which such suits shall be brought.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. At the suit of creditor or stockholder of any corporation organized under the laws of this or any state, and authorized to do business in this state, the circuit courts or any judge thereof in vacation shall have jurisdiction to appoint a receiver of such corporation to collect, protect, and preserve its assets and to continue the business of such corporation, where it can be and is shown in such suit that the directors, or other officers of such corporation are guilty of such fraud, mismanagement, waste or dissipation of the corporation's assets in the management of, or business of the corporation as to jeopardize the interest of the creditors or stockholders.

Any officer or agent of the corporation may be made a party to such suit for the purpose of recovering or preventing such waste or dissipation of the corporation's assets.

§ 2. Said Receiver shall take charge of the estate, property and effects of said corporation and collect the debts and property due and belonging to the corporation, with power to prosecute and defend suits in the name of the corporation, or otherwise cause such suits to be filed as may be necessary or proper to protect the interest of said corporation and its creditors or stockholders and by authority of the court or judge thereof to appoint agent or agents under him and to do all other acts which might be done by such corporation and continue the business thereof, and the powers of such Receiver may be continued as long as the court may deem necessary for the purposes aforesaid. The Court shall have jurisdiction of all questions arising in the proceeding thereon and may make such orders and decrees as justice and equity shall require.

§ 3. Before entering upon his duties the Receiver must be sworn to perform them faithfully; and, with one or more sureties approved by the court or judge, must execute bond to such person or corporation, and in such sum as the court shall direct, to the effect that he will faithfully discharge the duties of Receiver in the action. PROVIDED, no creditor or stockholder shall be appointed receiver.

§ 4. All such suits shall be brought in the county where the corporation maintains its principal office or place of business, or in the county where the major portion of its property is located.

§ 5. The order of a court, or of the judge thereof, appointing or refusing to appoint a receiver, shall be deemed a final order for the purpose of an appeal to the Court of Appeals. Provided, that such order shall not be superseded.

§ 6. All acts and parts of acts in conflict herewith are hereby repealed.

S. B. 15. AN ACT to amend Chapter 175 of the Acts of 1893, now Sections 202, 203, 204, 205, 206, 207 and 208 of the Kentucky Statutes, entitled "AN ACT requiring directors and trustees of incorporated burying-grounds and cemeteries to make a written report of financial condition to stockholders, and imposing penalties for failure to do so". Approved April the 8th, 1893, by providing that said Act shall not apply to incorporated cemeteries or burying-grounds, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 175 of the Acts of 1893, entitled "An Act requiring directors and trustees of incorporated burying-grounds and cemeteries to make a written report of financial condition to stockholders, and imposing penalties for failure to do so," be amended by adding thereto a provision reading as follows, to-wit: "Sec. 6a. The provisions of this Act, however, shall not apply to incorporated cemeteries or burying-grounds, no part of the net earnings of which inures to the benefit of any private stockholder or individual," so that said Act, as amended, shall read as follows:

§ 1. That the board of directors or trustees of incorporated cemeteries or burying-grounds of this Commonwealth shall, on the first day of January, one thousand eight hundred and ninety-four (1894), and upon the same day each year thereafter, be required to make a full and minute written report to the stockholders and lot-owners of said cemeteries and burying-grounds, as aforesaid, of all money, land, choses and property and assets of every kind, et cetera, together with the liabilities of said corporation on hand and in their possession, and under their control at said date.

§ 2. Failure on the part of any board of directors or

trustees of cemeteries and burying-grounds, incorporated by the laws of this Commonwealth, to make said report, as herein specified in this act, shall be guilty of a misdemeanor, and shall be punished by a fine of ten ($10) dollars. This fine is to apply to each director or trustee, individually, so violating this act.

§ 3. For each succeeding day thereafter shall be deemed and considered a separate offense, and the same fine shall be imposed and collected until the report aforesaid shall be duly made as herein provided for.

§ 4. The penalty and fines imposed by this act shall be enforced and collected as other penalties and fines and forfeitures are enforced and collected in this Commonwealth.

§ 5. Boards of directors or trustees, as aforesaid, failing to comply with this act shall become ineligible to serve as as directors or trustees in the said corporation as aforesaid.

§ 6. Directors or trustees of incorporated cemeteries or burying-grounds of this Commonwealth who have violated the provisions of the charter of said cemetery and burying-grounds, shall be forthwith removed from said position as directors and trustees as soon as the facts of such violations of charter is fully established before the proper court of jurisdiction. The same applies for violation of any statute covering cemeteries and burying-grounds of this Commonwealth.

§ 7. Any civil or judicial officer of this Commonwealth, who shall fail or refuse to enforce this act, or any statute bearing upon cemetery or burying-grounds of this Commonwealth, shall be fined twenty-five ($25) dollars for each said failure or refusal to enforce said act or statutes. Said fine or fines to be collected as other fines and forfeitures are collected in this Commonwealth.

§ 7a. The provisions of this Act, however, shall not apply to incorporated cemeteries or burying-grounds, no part

of the net earnings of which inures to the benefit of any private stockholder or individual.

§ 8. All acts and laws in conflict with the foregoing are hereby repealed.

S. B. 14. AN ACT to amend and re-enact section 73 of Carroll's Civil Code of Practice, Baldwin's Revision, 1938 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 73 of Carroll's Civil Code of Practice, Baldwin's Revision, 1938 Edition, be amended and re-enacted so that said Section 73 when amended and re-enacted shall read as follows:

Section 73. Common carrier; upon a contract to carry property or for a tort. Excepting the actions mentioned in Section 75, an action against a common carrier, whether a corporation or not, upon a contract to carry property, must be brought in the county in which the defendant, or one of the common carrier defendants resides, or in which the contract is made; or in which the carrier agrees to deliver the property. An action against such carrier for an injury to a passenger or other person or his property, must be brought in the county in which the defendant, or either of several common carrier defendants reside, or in which the plaintiff, or his property is injured, or in which he resided at the time of said injury or loss, if he resided in a county into which the carrier passes; provided, if the action be brought by a personal representative, the residence of the decedent and not that of the personal representative shall control.

Ordered that said bills be printed and referred.

And that they had passed bills which originated in this House, entitled:

H. B. 50. An Act to amend Sec. 965 Carroll's Kentucky Statutes, relating to time of holding circuit court in 38th Judicial District.

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers and penalties relating to the listing, assessment and taxation of certain intangible property.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of January 26).

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

1. Amend H. B. 167 by striking out in its entirety Section 4 thereof.

2. Amend H. B. 167 in Senate, by inserting in the printed bill on page 3, following line 15, of Section 3, the following:

"Section 4. The provisions of Section One shall not apply to any assessment made prior to July 1, 1940."

Said amendments were each concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Alvis S. Bennett	Douglas T. Bolling
Robert E. Barry	Sterling B. Blake	J. F. Bosworth

W. S. Brim	C. L. Hammons	Thomas Rigdon
C. J. Bronston	T. H. Hickey	Joe E. Robinson
Gus A. Brooks	Chester Huffines	Lyman Roll
James W. Chapman	J. B. Jarboe, Jr.	Carl Scheben
S. B. Chrisman	John S. Juett	Leon J. Shaikun
John Coulter	William K. King	Faust Y. Simpson
Pink G. Curd	W. A. Lamkin, Jr.	Bruce Sloan
F. E. Daugherty	Robert E. Lee	G. C. Springate
Stanley S. Dickson	Harvey D. Leonard	J. Claude Stacy
Louis B. Dugan	Edward Leslie	Ray J. Stengel
Forest C. Easley	C. C. May	W. St. Clair Stuart
D. E. Edwards	T. B. McConnell	T. M. Swope
Harry W. Ennis	E. Hayes McMakin	Erna E. Tyra
R. R. Ernst	Norris McPherson	J. Wood Vance
Carlos Fallis	Joe T. Morgan	S. J. Wagner
T. P. Fitzpatrick	Carl D. Perkins	Harry F. Walters
Cecil Florence	B. W. Porter	Henry Ward
Wayne Freeman	H. O. Porter	Otis White
Van Y. Greene	Kleber F. Price	James H. Woods
Ralph C. Hamilton	Hobart Rayburn	

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Those who voted in the negative were—

Clyde S. Howard	C. Homer Neikirk	Henry Stewart
John B. Mollette	Ray O. Shehan	Porter Wallace

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Mr. Chapman moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bills be delivered to the Enrolling Clerk of the House.

Mr. Joe E. Robinson moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Joe E. Robinson of the Committee on Revenue and Taxation No. 1.

H. B. 248. An Act relating to revenue and taxation, and to tax the gross amount of bank night awards.

By Mr. Rigdon of the Committee on Claims.

H. Res. 33. Resolution directing the payment to William D. Overton of the sums directed to be paid, etc.

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 191. An Act to amend Sec. 273 of Carroll's Criminal Code of Practice, 1938 Edition.

By Mr. Vansant of the Committee on County and City Courts.

H. B. 266. An Act to repeal, amend and re-enact Sec. 1061a-1 Carroll's Kentucky Statutes, relating to a stenographer, or clerk for county judges.

With Committee amendments thereto.

H. B. 310. An Act to create the office of stenographer or clerk to the county judge in all counties containing a part of a city of the third class, etc.

By Mr. H. O. Porter and Mr. Lamkin of the Committees on Education No. 1 and No. 1-A.

H. B. 53. An Act to amend and re-enact Sec. 4399-22, Kentucky Statutes, 1939 Supplement, being Chapter 4, page 134 of the Acts of the General Assembly, relating to the qualifications of members of boards of education.

H. B. 170. Any Act to amend Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938, entitled "An Act to provide approved high school service for all pupils."

By Mr. Cox of the Committee on Education No. 1-A.

H. B. 215. An Act authorizing independent school districts to annex county subdistrict or parts thereof.

By Mr. Jarboe of the Committee on Circuit Courts.

H. B. 82. An Act to create and fix the salary of a third assistant Commonwealth's Attorney in counties having a population of two hundred thousand or over; etc.

With a Committee Amendment thereto.

H. B. 132. An Act relating to the holding of sessions of court in the 26th Circuit Court District in Kentucky.

Without an expression of opinion.

H. B. 182. An Act to repeal, amend and re-enact Sec. 3896, Carroll's Kentucky Statutes, 1936 Edition.

Without an expression of opinion.

S. B. 28. An Act to change the time of holding the terms of Circuit Court in the 37th Judicial District.

By Mr. Ennis of the Committee on Cities of the Third Class.

S. B. 38. An Act to amend and re-enact Sec. 2290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, providing for the government of cities of the third class.

With the expression of opinion that said bills ought to pass, with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Jarboe of the Committee on Circuit Courts.

H. B. 232. An Act relating to master commissioners of circuit courts, and amending sections 392 and 394 of Carroll's Kentucky Statutes, 1936 Edition.

With the expression of opinion that said bill ought not to pass.

No motion having been made to advance said bill to a reading, the report of the Committee to the contrary notwithstanding and no further action having been taken by the House, it was ordered that said bill be not read at length the first time, and so said bill was rejected.

The hour of two o'clock P. M. having arrived, that being the hour for the Special Order of the Day, to-wit a bill entitled:

H. B. 76. An Act construing certain provisions in deeds and wills; defining powers of grantees, legatees and devisees therein; etc.

The House took up for consideration, said bill.

Mr. J. Lee Moore moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 139. An Act to promote the public welfare by providing aid to dependent children.

Mr. Bolling moved that said bill be made a Special Order of the Day, for Thursday, February 8, at two o'clock P. M.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 81. AN ACT relating to duly licensed and practicing attorneys at law, in counties containing cities of the first or second class, and providing for compensation for said attorneys for legal services performed and rendered by them in representing paupers charged with the commission of a felony, when said attorneys are ordered by the judge of the Circuit Court to so do; and providing that the amount of said compensation shall be determined and fixed by the judge of the Circuit Court to so do; and providing that the amount of said compensation shall be determined and fixed by the judge of the Circuit Court of said counties containing first or second class cities; and providing that the amount of said compensation shall be based upon the nature of the charge and the time and expense consumed and incurred in preparing and trying the case; and providing that in no event shall the compensation be less than ten ($10.00) dollars nor more than Two hundred ($200.00) dollars; and further providing that all awards so made shall constitute valid claims against the county containing said cities of the first or second class wherein the indictment is returned; and providing for appeals to the Court of Appeals for said awards; and repealing all acts or parts of acts, and all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That any duly licensed attorney at law practicing in counties of this Commonwealth containg cities of the first

or second class who shall upon the order of any judge of its Circuit Court in said counties be required to and does in fact render and perform legal services in representing a pauper charged with the commission of a felony, within such counties containing cities of the first or second class, shall be entitled to compensation therefor, according to the value of the services rendered or performed by him. The amount of said compensation shall be determined and fixed by the presiding judge of the Circuit Court that appointed said attorney to so do, consideration being given to the nature of the charge, and the amount of time and expense consumed and incurred in the preparation and trail of the case. Provided, however, that in no event shall the amount be less than ten ($10.00) Dollars nor more than two hundred ($200.00) dollars.

Any and all amounts awarded by said judge shall be certified by the clerk of said court to the fiscal court of the county wherein said indictment was returned and said amount shall constitute a valid claim against said county and shall be paid from the funds of said county.

Whenever any fiscal court or any such attorney shall be aggrieved by the awards so made, such aggrieved party may, within three days from the finding and entry thereof object thereto and thereupon either or both parties may introduce evidence either orally or by deposition, for the purpose of establishing the excessiveness or inadquancy of said award. Any objection on the part of a fiscal court of a said county containing a city of the first or second class shall be by the county attorney who shall represent the fiscal court at said hearing. The ruling of said circuit court upon objection to the award shall be final for the purpose of appeal and the aggrieved party may thereupon prosecute an appeal to the Court of Appeals; in all such appeals the apellee shall be the judge of the circuit court who made or refused to make said award.

If any provision of the Act is declared invalid, it shall not affect the other provisions hereof.

All Acts or parts of Acts, and all laws or parts of laws, in conflict herewith are herbey repealed.

Mr. Anderson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Jack Savage	Henry Stewart
Louis B. Dugan	Ray O. Shehan	Otis C. Thomas
R. R. Ernst	Faust Y. Simpson	Porter Wallace
William K. King	Bruce Sloan	Otis White
H. O. Porter	E. T. Sparks	

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Those who voted in the negative were—

H. T. Baker	Gus A. Brooks	D. E. Edwards
Robert E. Barry	Randolph A. Brown	Harry W. Ennis
Wm. T. Beard	S. B. Chrisman	Carlos Fallis
Alvis S. Bennett	John H. Cox	T. P. Fitzpatrick
Sterling B. Blake	Pink G. Curd	Cecil Florence
Douglas T. Bolling	F. E. Daugherty	Wayne Freeman
W. S. Brim	Stanley S. Dickson	Eugene Gough

Van Y. Greene	Frank C. McElwain	Leon J. Shaikun
Ralph C. Hamilton	Norris McPherson	Otto Smither
C. L. Hammons	John B. Mollette	G. C. Springate
T. H. Hickey	J. Lee Moore	J. Claude Stacy
Clyde S. Howard	Joe T. Morgan	Ray J. Stengel
R. L. Jackson	Carl D. Perkins	Erna E. Tyra
J. B. Jarboe, Jr.	Kleber F. Price	Walter R. Vansant
John S. Juett	W. H. Riley	S. J. Wagner
Robert E. Lee	Joe E. Robinson	Harry F. Walters
Harvey D. Leonard	Lyman Roll	Henry Ward
W. Paul Lyon	Carl Scheben	James H. Woods

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Mr. Hunnicutt moved that the Rules of this House be suspended and that the vote by which a bill entitled:

H. B. 120. An Act to provide moral instruction for children in connection with the public schools.

Was rejected on yesterday,

Be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Hunnicutt moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

(For bill, see House Journal of yesterday)

Thereafter such reconsideration, Mr. Neikirk offered the following amendments to said bill, viz.:

1. Amend H. B. 120 on page 2, section 4 by striking out the entire section and adding in lieu therefor the following:

"Each board of education may make such arrangements with the respective persons in charge of the moral instructions as the said board deems necessary and advisable."

2. Amend H. B. 120 on page 2, section 2, line 3 by striking out the words "the church affiliations, or preferences of"

Said amendments were each agreed to.

Mr. Neikirk moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Pink G. Curd	William K. King
J. Everett Bach	F. E. Daugherty	W. A. Lamkin, Jr.
H. T. Baker	Stanley S. Dickson	Robert E. Lee
Robert E. Barry	Louis B. Dugan	Harvey D. Leonard
Wm. T. Beard	Forest C. Easley	Edward Leslie
Alvis S. Bennett	R. R. Ernst	W. Paul Lyon
Sterling B. Blake	Cecil Florence	C. C. May
Douglas T. Bolling	Van Y. Greene	Frank C. McElwain
J. F. Bosworth	Ralph C. Hamilton	E. Hayes McMakin
W. S. Brim	C. L. Hammons	John B. Mollette
C. J. Bronston	T. H. Hickey	Joe T. Morgan
Gus A. Brooks	Clyde S. Howard	C. Homer Neikirk
Haynes Carman	Chester Huffines	Carl D. Perkins
John Coulter	John M. Hunnicutt	B. W. Porter
John H. Cox	John S. Juett	H. O. Porter

Hobart Rayburn	Otto Smither	Erna E. Tyra
Thomas Rigdon	E. T. Sparks	J. Wood Vance
Joe E. Robinson	G. C. Springate	Walter R. Vansant
Lyman Roll	Ray J. Stengel	S. J. Wagner
Carl Scheben	Henry Stewart	Porter Wallace
Ray O. Shehan	W. St. Clair Stuart	Harry F. Walters
Faust Y. Simpson	T. M. Swope	Henry Ward
Bruce Sloan	Otis C. Thomas	James H. Woods

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Mr. Hunnicutt and Mr. Gough offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 120 by adding thereto the following sentence:

"This Act shall be known as the Neikirk Act."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Neikirk moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 40. AN ACT to repeal section 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3580E-6, etc., establishing a civil service commission in cities of the third class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3480E-6, 3480E-7, 3480E-8, 3480E-9, 3480E-10,

3480E-11, 3480E-12, of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six, Supplement of April, one thousand nine hundred and thirty-nine, being chapter 114 of the Acts of the General Assembly of the Commonwealth of Kentucky, of 1938, be and is hereby repealed.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

Ordered, that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with

Said bill was read the third time by its title and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	John H. Cox	Clyde S. Howard
J. Everett Bach	Pink G. Curd	Chester Huffines
H. T. Baker	F. E. Daugherty	R. L. Jackson
Robert E. Barry	Stanley S. Dickson	J. B. Jarboe, Jr.
Wm. T. Beard	Louis B. Dugan	John S. Juett
Alvis S. Bennett	Forest C. Easley	William K. King
Sterling B. Blake	D. E. Edwards	W. A. Lamkin, Jr.
Douglas T. Bolling	Harry W. Ennis	Robert E. Lee
J. F. Bosworth	Carlos Fallis	Harvey D. Leonard
W. S. Brim	T. P. Fitzpatrick	Edward Leslie
C. J. Bronston	Cecil Florence	W. Paul Lyon
Gus A. Brooks	Wayne Freeman	C. C. May
Randolph A. Brown	Eugene Gough	T. B. McConnell
Haynes Carman	Van Y. Greene	Frank C. McElwain
James W. Chapman	Ralph C. Hamilton	E. Hayes McMakin
S. B. Chrisman	C. L. Hammons	Norris McPherson
John Coulter	T. H. Hickey	John B. Mollette

J. Lee Moore	Jack Savage	W. St. Clair Stuart
Joe T. Morgan	Carl Scheben	Otis C. Thomas
C. Homer Neikirk	Leon J. Shaikun	Erna E. Tyra
Carl D. Perkins	Ray O. Shehan	J. Wood Vance
B. W. Porter	Faust Y. Simpson	S. J. Wagner
H. O. Porter	Bruce Sloan	Porter Wallace
Kleber F. Price	Otto Smither	Harry F. Walters
Hobart Rayburn	G. C. Springate	Otis White
W. H. Riley	J. Claude Stacy	James H. Woods
Joe E. Robinson	Ray J. Stengel	
Lyman Roll	Henry Stewart	—82

Those who voted in the negative were—

R. R. Ernst E. T. Sparks —2

Resolved that the title thereof be as aforesaid—

Mr. Ennis moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 135. An Act relating to county roads and providing how such roads shall be named and how the names of said roads may be changed and also providing for the marking and placing of signs bearing the names of said roads and providing a penalty for any violation of the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All county roads in the respective counties of the Commonwealth of Kentucky shall be named and known by

the name by which they were designated on the mat or plat of record in the Office of the Clerk of the County Court of each respective county, or by the order of the Court establishing such road, or by the deed or deeds conveying the easement or right-of-way for said road to the county.

When the name of any road shall have been designated as hereinabove provided for, the name of said road can only be changed by an order of the County Court of said county on a petition filed in said Court and in a proceeding in which 50% or more of the property owners abutting upon said road shall have joined in said petition or shall have been summoned for a hearing upon said petition in the County Court at a day and time designated for such hearing.

Upon petition filed in said Court and in a proceeding in which 50% or more of the owners of property abutting on said road shall have joined in said petition or shall have been summoned for a hearing upon said petition in the County Court at a day and time designated for such hearing, any unnamed road within the county shall, by judgment or order entered upon such hearing, be given a name by which it shall be known and designated.

The Fiscal Courts of the respective Counties may cause signs bearing the name of each road to be erected or placed on said roads, or it may, by a resolution duly recorded upon the record books of said Court, authorize or permit the placing by others, either persons, firms, corporations, or organizations to place or erect such signs as may be approved as to form by the Fiscal Court provided, however, that said signs must bear the name designated to said road by the County Court.

It shall be unlawful for any person, firm, corporation or organization to remove or damage any sign erected as hereinabove provided for, or to erect or place, or cause to be erected or placed, upon any road any sign or signs, indicating, marking, or designating said road by any other name

than as hereinabove provided for, and any person, firm, corporation, or organization guilty of violating the provisions of this Act shall be fined not less than Ten Dollars ($10.00) and not more than One Hundred Dollars ($100.00) for each offense.

Mr. J. Lee Moore offered the following amendment to said bill, viz.:

Amend H. B. 135 by adding an additional section:

"Nothing in this Act shall prohibit the Highway Department form designating roads built under the supervision of said Highway Department either by name or number."

Said amendment was agreed to.

Mr. Barry offered the following amendment to said bill, viz.:

Amend H. B. 135 by striking out word "mat" in line 3, page 1 and inserting in lieu therefor the word "map"

Said amendment was agreed to.

Mr. Shaikun moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Van Y. Greene	Kleber F. Price
J. Everett Bach	Ralph C. Hamilton	Thomas Rigdon
H. T. Baker	C. L. Hammons	W. H. Riley
Robert E. Barry	T. H. Hickey	Lyman Roll
Wm. T. Beard	Clyde S. Howard	Jack Savage
Alvis S. Bennett	Chester Huffines	Carl Scheben
Sterling B. Blake	John M. Hunnicutt	Leon J. Shaikun
Douglas T. Bolling	R. L. Jackson	Ray O. Shehan
J. F. Bosworth	J. B. Jarboe, Jr.	Faust Y. Simpson
W. S. Brim	John S. Juett	Bruce Sloan
Gus A. Brooks	William K. King	Otto Smither
Randolph A. Brown	W. A. Lamkin, Jr.	E. T. Sparks
Haynes Carman	Robert E. Lee	G. C. Springate
James W. Chapman	Harvey D. Leonard	J. Claude Stacy
S. B. Chrisman	Edward Leslie	Ray J. Stengel
John Coulter	W. Paul Lyon	Henry Stewart
John H. Cox	C. C. May	W. St. Clair Stuart
F. E. Daugherty	Frank C. McElwain	T. M. Swope
Louis B. Dugan	E. Hayes McMakin	Otis C. Thomas
Forest C. Easley	Norris McPherson	J. Wood Vance
D. E. Edwards	John B. Mollette	Walter R. Vansant
Harry W. Ennis	J. Lee Moore	S. J. Wagner
R. R. Ernst	Joe T. Morgan	Porter Wallace
Carlos Fallis	C. Homer Neikirk	Harry F. Walters
T. P. Fitzpatrick	Carl D. Perkins	Henry Ward
Wayne Freeman	B. W. Porter	James H. Woods
Eugene Gough	H. O. Porter	—80

Resolved that the title thereof be as aforesaid.

Mr. Barry moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The hour of three o'clock P. M. having arrived that being the hour for the Special Order of the Day, the House took up for consideration said Special Order, to-wit: a bill entitled:

H. B. 68. An Act to repeal subsection 9 of section 518 of the Civil Code of Practice of Kentucky.

Said bill is as follows, viz.:

Be is enacted by the General Assembly of the Commonwealth of Kentucky:

That subsection 9 of section 518 of the Kentucky Civil Code of Practice be and the same is hereby repealed.

Mr. Daugherty moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Sterling B. Blake	Haynes Carman
J. Everett Bach	Douglas T. Bolling	S. B. Chrisman
H. T. Baker	J. F. Bosworth	John Coulter
Robert E. Barry	W. S. Brim	F. E. Daugherty
Wm. T. Beard	Gus A. Brooks	Stanley S. Dickson
Alvis S. Bennett	Randolph A. Brown	Louis B. Dugan

Forest C. Easley	C. C. May	Ray O. Shehan
Harry W. Ennis	T. B. McConnell	Faust Y. Simpson
R. R. Ernst	Frank C. McElwain	Bruce Sloan
Carlos Fallis	E. Hayes McMakin	Otto Smither
T. P. Fitzpatrick	Norris McPherson	G. C. Springate
Cecil Florence	John B. Mollette	J. Claude Stacy
Eugene Gough	J. Lee Moore	Ray J. Stengel
Van Y. Greene	Joe T. Morgan	Henry Stewart
Ralph C. Hamilton	C. Homer Neikirk	W. St. Clair Stuart
C. L. Hammons	Carl D. Perkins	T. M. Swope
T. H. Hickey	B. W. Porter	Otis C. Thomas
Clyde S. Howard	H. O. Porter	J. Wood Vance
Chester Huffines	Kleber F. Price	Walter R. Vansant
R. L. Jackson	Hobart Rayburn	S. J. Wagner
J. B. Jarboe, Jr.	Thomas Rigdon	Porter Wallace
John S. Juett	W. H. Riley	Harry F. Walters
W. A. Lamkin, Jr.	Joe E. Robinson	Henry Ward
Robert E. Lee	Lyman Roll	Otis White
Harvey D. Leonard	Jack Savage	James H. Woods
Edward Leslie	Carl Scheben	
W. Paul Lyon	Leon J. Shaikun	—79

Resolved that the title thereof be as aforesaid.

Mr. Daugherty moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 193. An Act relating to the deposit of securities by Domestic Life Insurance Companies for the protection of the policy holders therein: prescribing the amount of such required deposits, how and where made: providing for withdrawals of excess deposits; providing for the appointment of a Deputy Director of the Division of Insurance as custodian

of such securities; providing for the payment of the salary of said Director and for the payment of other necessary expenses incident to carrying out the provisions of this Act: providing for the payment by the companies affected of sums necessary to carry out said provisions, and repealing all conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Within ninety days after the net cash value of each policy in force shall be ascertained, as now required by law, every Domestic Life Insurance Company shall deposit for the security and benefit of its policyholders, with a Deputy Director of the Division of Insurance, appointed in the manner hereinafter set forth, securities in which Domestic Life Insurance Companies may legally invest their funds, in an amount which together with such sums as may be deposited by said companies with other states and governments by the requirements of the law thereof, shall be not less than the ascertained valuation of all policies in force, less any sums which any Domestic Life Insurance Company shall have advanced from its legal reserve to the policyholders of the company, on the pledge to it of their policies and any accumulations thereon.

Provided, however, that if the legal reserve or the aggregate ascertained valuation of all policies in force in any Domestic Life Insurance Company shall equal TWENTY MILLION ($20,000,000.00) DOLLARS, then no further deposit shall be required of such company so long as said legal reserve shall remain at or above TWENTY MILLION ($20,000,000.00) DOLLARS, unless said company shall elect to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written, is on deposit with the Commonwealth of Kentucky, or one or more of its

designated agencies, in which event such company shall deposit securities as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time such representation is made.

Provided, further, that no company shall be required to make the deposit herein required until the net cash value of the policies in force exceeds the amount deposited with the State under the provisions of Kentucky Statutes, Section 648, and then only to the extent of such excess.

§ 2. Every Domestic Life Insurance Company shall have the right at any time to change its securities on deposit by substituting for those withdrawn, a like amount in other securities of the character which may be deposited according to law, and whenever the value of the securities on deposit with the Division of Insurance shall exceed the minimum amount required to be kept on deposit by Section 1 hereof, then any company having such excess on deposit may withdraw such excess deposit.

§ 3. The Director of the Division of Insurance or the Deputy Director mentioned herein shall keep a complete record showing the kind of property or securities deposited by each Insurance Company, the face value thereof, the value as determined by the Director of the Division of Insurance, the date and where deposited and when withdrawn in the manner prescribed by the Director of the Division of Insurance, and the name and address of the persons and company delivering such securities for deposit, the date and amount of securities withdrawn by permission of the Director of the Division of Insurance, and the name of the company making such withdrawal, the names and address of the persons to whom such securities were delivered, and such further information and records as the Director of the Division of Insurance may deem necessary.

§ 4. The Deputy Director of the Division of Insurance in charge of the securiteis provided for herein, shall be ap-

pointed by the Governor in accordance with the laws governing other Executive appointments, and shall receive a salary of TWO HUNDRED ($200.00) DOLLARS per month, payable as other State salaries, but out of the funds contributed for that purpose by the Insurance Companies affected by this Act in the manner hereinafter set out. Such Deputy Director of the Division of Insurance shall give to the Commonwealth of Kentucky, for its benefit and for the use and benefit of any Insurance Company, creditor or policyholders thereof, a security bond in the penal sum of ONE HUNDRED THOUSAND ($100,000.00) DOLLARS, conditioned for the faithful performance of the duties of his office and for his official acts in receiving deposits or delivering securities under the provisions of this Act. The form of the above bond shall be approved by the Attorney General of the Commonwealth and the premiums thereof shall be paid from the same funds from which the Deputy Director's salary is paid.

§ 5. The Director of the Division of Insurance shall designate not less than one more than three good and solvent Banks or Trust Companies, located in every county containing a City of the First class, whose vaults shall be used as depositories for the securities mentioned herein; and none of the securities or properties thus deposited shall be removed from said vault or vaults except upon the written order of at least two representatives of the company owning the securities or properties, which said representatives shall be authorized by the Board of Directors of said company, and which written order shall be approved by the Director of the Division of Insurance; and the vault or vaults or other receptacles in which said securities are deposited shall only be opened and securities deposited or withdrawn, in the joint presence of the Deputy Director of the Division of Insurance, and two authorized representatives of the company owning the securities, which said representatives shall be authorized by the Board of Directors of said Company.

Provided, however, that such vaults or receptacles may be reopened and the securities withdrawn under the direction and upon the order of any court of competent jurisdiction.

§ 6. Each and every Insurance Company depositing securities or properties or other evidences of indebtedness or ownership of property under the provisions of this Act, shall, at its own expense, rent adequate space in the vaults of the Banks or Trust Companies selected by the Director of the Division of Insurance to deposit such company's properties, securities or evidences of indebtedness.

§ 7. The Deputy Director of the Division of Insurance shall be available at all reasonable times in the branch office of the Division of Insurance maintained in the City of the first class.

§ 8. The Domestic Life Insurance Companies affected by this Act shall, for the purposes of paying the necessary expenses for carrying out the provisions thereof, including the salary of the Deputy Director and the premiums on his bond, pay to the Director of the Division of Insurance in the aggregate each month, the sum of THREE HUNDRED ($300.00) DOLLARS, which sum shall be allocated among the Companies affected by said Act as follows:

Each company coming under the provisions of said Act shall pay to the Director of the Division of Insurance monthly, the sum of TWENTY-FIVE ($25.00) DOLLARS. Should such payments not aggregate THREE HUNDRED ($300.00) DOLLARS, then the amount necessary to bring said total payments to THREE HUNDRED ($300.00) DOLLARS, shall be paid by said companies in the proportion in which each Company's deposit bears to the total deposited by all the Companies. The money thus paid in to the Director of the Division of Insurance shall be by him deposited in the State Treasury and shall be used by him, first in paying the salary of the Deputy Director of Insurance and the premiums on his

bond, and the balance shall be used in paying other necessary expenses incident to maintaining an office in any county of the Commonwealth containing a city of the first class. Provided, however, that the total gross expenses of said office shall not exceed THREE THOUSAND SIX HUNDRED ($3,600.00) DOLLARS per year, and providing further that the total gross contributions of the companies affected hereby including the TWENTY-FIVE ($25.00) DOLLAR monthly assessments, shall not exceed THIRTY-SIX HUNDRED ($3,600.00) DOLLARS per year.

§ 9. The Director of the Division of Insurance shall have the authority at any time to cause an inventory to be made of the securities on deposit in any designated depository, and any company depositing securities under the provisions of this Act, shall have the right to request the Director of Insurance to cause such inventory to be made, and upon the receipt by the Director of Insurance of such request, it shall be his duty to forthwith cause an inventory to be made at the expense of, and for the benefit of, the depositing company so requesting. Any such inventory must be made in the presence of a designated representative of the Division of Insurance, and two representatives of the Company owning the securities, which said representatives shall be so authorized by the Board of Directors of said Company.

§ 10. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Mr. Neikirk offered the following amendments to said bill, viz.:

1. Amend H. B. 193 by striking out the following: page 6, section 10, lines 1 and 2 and inserting the following in lieu thereof:

Section 10. Sections 648a-1, 648a-2, 648a-4, 4618-10, 4618-11, 4618-12 of Carroll's Kentucky Statutes, 1936 Edition, are repealed.

2. Amend H. B. 193 after line 2 of Section 10 on page 6 by adding the following:

Section 11. Section 648 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

648. Deposit of securities of domestic company with deputy director of the Division of Insurance. Every domestic life insurance company shall deposit with the deputy director of the Division of Insurance, who shall receive the same in his official capacity, any of the bonds or securities in which, by law, it is authorized to invest its capital and accumulations, to an amount not less than one hundred thousand dollars to be held by the said deputy director for the benefit of the policy holders of the company making such deposit. When any mortgage debt shall be deposited, it shall be accompanied with a notice served upon or acknowledged by the mortgagor that the same has been so deposited for the purpose aforesaid. When required to do so, said deputy director shall give to any company making the aforesaid deposit a certificate thereof, giving a description of these securities and their par and market value, which valuation must be approved by the commissioner; and if said securities shall at any time depreciate so that their aggregate value is less than the sum of one hundred thousand dollars, the insurance commissioner shall notify and require said company to make good the said deficit, in default whereof, for thirty days after such notice, he shall notify the company to cease to do business until the same has been done. So long as any company so depositing shall continue solvent, and shall not be in arrears for taxes or other assessments, the deputy director shall permit said company to collect the interest or dividends on its securities so deposited, and from time to time to withdraw any such securities on depositing others instead of those withdrawn, such new securities to be of at least equal value, and of the kinds mentioned in this law; but such securities, or any part of the same, shall not be withdrawn from the place of

deposit, unless upon the written order of the acting president and secretary, or of the directors of the company making the deposit, approved by the insurance commissioners, or upon the order or by the authority of some court of competent jurisdiction; and if said deputy director shall willfully fail, refuse or neglect to faithfully keep, deposit, account for or surrender, in the manner by this law authorized or required, any such securities as aforesaid received by him, or into his custody, under the provisions of this law, such deputy director so offending shall, upon conviction thereof, be adjudged guilty of a felony, and punished by fine not exceeding ten thousand dollars, and by imprsionment in the state penitentiary for not less than two nor more than ten years.

3. Amend H. B. 193 by adding the following after line 2 of Section 10, on page 6:

"Section 12. Insurance companies to deposit securities with State Treasurer. Every Insurance Company doing business in the State of Kentucky except domestic life insurance companies, and now required by law or hereinafter required by law to make deposits of stocks, bonds, notes, real estate, mortgages or other evidences of indebtedness or ownership of property for the protection and benefit of its policy holders, shall make such deposits with the State Treasurer of the Commonwealth of Kentucky, who shall hold them in his official capacity for the security and benefit of the policy holders of the company making such deposits and also as trustee for the Insurance Company.

4. Amend H. B. 193 on page 4, line 2, between the words "one" and "more" by adding the word "nor"

5. Amend H. B. 193 by striking out on page 2 line 16 the letters "surmace" and substituting in lieu thereof the letters "surance"

6. Amend H. B. 193 by inserting the following on page 3, section 4, line 2, after the word "appointed" the words "by the Treasurer until January 1, 1944 and thereafter"

7. Amend H. B. 193 on page 2, line 17 by striking out the following on page 2, line 17 "depost" and adding in lieu thereof the word "deposit"

Said amendments were each and severally agreed to.

Mr. J. Lee Moore moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken threeon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	S. B. Chrisman	T. H. Hickey
J. Everett Bach	John Coulter	Clyde S. Howard
H. T. Baker	F. E. Daugherty	Chester Huffines
Robert E. Barry	Louis B. Dugan	John M. Hunnicutt
Wm. T. Beard	Forest C. Easley	R. L. Jackson
Alvis S. Bennett	D. E. Edwards	J. B. Jarboe, Jr.
Sterling B. Blake	Harry W. Ennis	W. A. Lamkin, Jr.
Douglas T. Bolling	R. R. Ernst	Robert E. Lee
J. F. Bosworth	Carlos Fallis	Harvey D. Leonard
W. S. Brim	T. P. Fitzpatrick	Edward Leslie
Gus A. Brooks	Cecil Florence	W. Paul Lyon
Randolph A. Brown	Wayne Freeman	C. C. May
Haynes Carman	Eugene Gough	Frank C. McElwain
James W. Chapman	C. L. Hammons	E. Hayes McMakin

Norris McPherson	Leon J. Shaikun	T. M. Swope
John B. Mollette	Ray O. Shehan	Otis C. Thomas
J. Lee Moore	Faust Y. Simpson	Erna E. Tyra
C. Homer Neikirk	Bruce Sloan	J. Wood Vance
Carl D. Perkins	Otto Smither	Walter R. Vansant
B. W. Porter	E. T. Sparks	S. J. Wagner
Kleber F. Price	G. C. Springate	Porter Wallace
Hobart Rayburn	J. Claude Stacy	Harry F. Walters
Joe E. Robinson	Ray J. Stengel	Otis White
Jack Savage	Henry Stewart	James H. Woods
Carl Scheben	W. St. Clair Stuart	—74

Resolved that the title thereof be as aforesaid.

Mr. Neikirk moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a bill entitled:

H. B. 50. An Act to amend Sec. 965, Carroll's Kentucky Statutes, relating to time of holding circuit court in the 38th Judicial District.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House affixed his signature thereto.

Ordered that the Enrolling Clerk deliver said bill to the Senate.

After a time the Enrolling Clerk aforesaid delivered the orginial and enrolled copies of said bill together with the original and enrolled copies of a Resolution entitled:

H. Res. Resolution providing for a contingent fund for the Clerk of the Senate and the Clerk of the House.

Which was signed by the Speaker on yesterday.

Duly signed by the President of the Senate.

Ordered that the Clerk of this House deliver said bill and resolution to the Governor.

After a time the Clerk reported that he had discharged that duty.

The House took up for consideration from the Orders of the Day a bill entitled:

H. B. 116. An Act to promote the public welfare by providing aid to the needy blind.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act: "Aid to the Needy Blind" means money payments and such services as may be necessary to provide for the welfare of the needy blind;

"Applicant" means a person who has applied for Aid to the Needy Blind, or for whom Aid to the Needy Blind has been applied for under the provisions of this Act;

"Recipient" means a person who is receiving Aid to the Needy Blind under the provisions of this Act;

"State Department" means the State Department of Welfare created by the Governmental Reorganization Act of 1936;

"Needy Blind" means a person, or persons, who has no vision, or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential, or whose vision because of eye disease will become so

defective without corrective or preventive treatment that ordinary and essential activities cannot be performed, and who is unable to provide himself, or themselves, or who does not have otherwise provided for him, or them, a reasonable subsistence compatible with decency and health, and/or is unable to provide himself, or themselves, or have provided for him, or them, specialized services for corrective or preventive treatment for blindness;

"Ophthalmologist" means a physician skilled in the treatment of defects and diseases of the human eye licensed to practice medicine and who is actively engaged in the treatment of diseases of the human eye.

§ 2. *Eligibility for Aid to the Needy Blind.* Aid to the Needy Blind shall be granted to any needy blind who:

(a) Has resided in the State for one year immediately preceding the application for Aid to the Needy Blind, or who was born within the State within one year immediately preceding the application for Aid to the Needy Blind, if the child's parent, or parents, has resided in the State for one year immediately preceding the birth of the child;

(b) Is a resident of the State at the time of receiving Aid to the Needy Blind;

(c) Is not at the time of receiving Aid to the Needy Blind an inmate of any public or private institution of a custodial or eleemosynary nature, except in case of temporary medical or surgical care in a hospital;

(d) Has not voluntarily made an assignment or transfer of property for the purpose of rendering himself eligible for Aid to the Needy Blind as provided for in this Act;

(e) Is not receiving Aid to Dependent Children as provided for in the Aid to Dependent Children Act nor is receiving Old Age Assistance as provided for in the McCarthy-Ramey Old Age Assistance Act. A person receiving Aid to Dependent Children or Old Age Assistance may, however,

make application for Aid to the Needy Blind, but Aid to the Needy Blind as defined in this Act, if granted, shall not begin until he ceases to receive Aid to Dependent Children or Old Age Assistance.

§ 3. *Amount of Aid to the Needy Blind to be Granted.* The amount of Aid to the Needy Blind which shall be granted to, or for, any needy blind shall be determined with due regard to the resources and requirements of the individual and the conditions existing in each case and shall be sufficient, when added to all other income, resources, and support available to the needy blind, to provide such needy blind with a reasonable subsistence compatible with decency and health, and/or specialized services for corrective or preventive treatment for blindness, including the necessary traveling expenses to and from medical center.

§ 4. *Duties of the State Department.* (a) The State Department shall: (1) have the administration of all funds appropriated or made available to it for the purposes of this Act; (2) receive and administer such Federal Funds as are made available and shall prepare and submit such reports as may be required by the Federal Government with respect to Aid to the Needy Blind; (3) develop plans and policies for Aid to the Needy Blind in cooperation with the Federal Government; (4) develop standards of service for the administration of Aid to the Needy Blind in the State; (5) coordinate the functions of the several Divisions in the State Department to provide specialized services to any applicant and recipient where such specialized services are deemed necessary for the welfare of the needy blind; (6) initiate or cooperate with other agencies in developing specialized service for the prevention of blindness, the conservation of vision, and the vocational and social adjustment for the needy blind and other blind persons; (7) cooperate with the Division of Personnel Efficiency in the Department of Finance in establishing standards for personnel employed in the administra-

tion of this Act and these personnel standards shall meet the minimum requirements of the Social Security Board in the Federal Government, and the State Department shall make rules and regulations necessary to maintain personnel standards; (8) designate ophthalmologists to examine applicants and recipients for the purpose of determining blindness in the individual; (9) arrange for the examination of applicants and recipients by fixing and paying fees to the designated ophthalmologists; (10) promulgate rules and regulations stating in terms of ophthalmic measurements the amount of visual acuity and/or the extent of eye disease and still be eligible for Aid to the Needy Blind; (11) provide such forms, records and reports as may be necessary with respect to the administration of this Act.

(b) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State.

(c) The Commissioner of Welfare shall appoint in accordance with the Governmental Reorganization Act of 1936 such personnel, including ophthalmologists, as are necessary to properly administer this Act.

§ 5. *Confidential Nature of Records.* Notwithstanding any other provisions of law it is hereby provided that all applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State Department.

§ 6. *Right of Appeal.* An applicant or a recipient of Aid to the Needy Blind as provided for in this Act, who shall be dissatisfied with the decision on his application, or because of delayed action on his application, for such Aid to the Needy

Blind or the amount of Aid to the Needy Blind granted to him shall have the right to appeal to the State Department in the manner and form prescribed by rules and regulations of the State Department, and the State Department shall establish rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

§ 7. *Aid to the Needy Blind Not Assignable.* All Aid to the Needy Blind granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

§ 8. *Short Title.* This Act shall be known as the Aid to the Needy Blind Act.

§ 9. *Repeal of Existing Laws.* All laws and parts of laws in conflict with any of the provisions of this Act are hereby expressly repealed.

§ 10. *Separability Clause.* It is hereby declared to be the intent of the Legislature that if this Act can not take effect in its entirety because any section, paragraph, clause, or word, of this Act shall be adjudged to be unconsitutional, such adjudication shall not affect the remaining portion of this Act and said remaining portion shall be given full force and effect as completely as if the part held unconstitutional had not been included.

Mr. Scheben offered the following amendments to said bill, viz.:

1. Amend H. B. 116 after the period on line 9 page 3 at the end of Section 3, by adding the following: "Provided, however, funds are available to carry out the provisions of this Act. That said activities for the Aid to the Needy Blind, at all times shall be under the scrutiny of the Department of Finance, subject to its approval or disapproval."

2. Amend H. B. 116 on page 3, section 4, line 15 by adding the following after the word "persons" and before

the semi-colon: "provided, however, that nothing in this Act shall be construed to grant permission to the Department of Welfare to engage in any activity in the interest of the blind now being conducted by the Kentucky School for the Blind, Kentucky Work Shop for the adult blind, Department of Health, or the several activities such as sight conservation, rehabilitation, or other activities conducted by the Department of Education in the interest of the blind."

3. Amend H. B. 116 after the period at the end of section 6: "The decision of the Department of Welfare shall be final."

Said amendments were each and severally agreed to.

Mr. Bach moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only, and passed.

The yeas and nay being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Alvis S. Bennett	C. J. Bronston
J. Everett Bach	Sterling B. Blake	Gus A. Brooks
H. T. Baker	Douglas T. Bolling	Randolph A. Brown
Robert E. Barry	J. F. Bosworth	Haynes Carman
Wm. T. Beard	W. S. Brim	James W. Chapman

S. B. Chrisman	W. A. Lamkin, Jr.	Carl Scheben
John Coulter	Robert E. Lee	Leon J. Shaikun
John H. Cox	Harvey D. Leonard	Ray O. Shehan
F. E. Daugherty	Edward Leslie	Faust Y. Simpson
Stanley S. Dickson	W. Paul Lyon	Bruce Sloan
Louis B. Dugan	C. C. May	Otto Smither
Forest C. Easley	T. B. McConnell	G. C. Springate
D. E. Edwards	Frank C. McElwain	J. Claude Stacy
Harry W. Ennis	E. Hayes McMakin	Ray J. Stengel
R. R. Ernst	Norris McPherson	Henry Stewart
Carlos Fallis	John B. Mollette	W. St. Clair Stuart
T. P. Fitzpatrick	J. Lee Moore	T. M. Swope
Cecil Florence	Joe T. Morgan	Otis C. Thomas
Wayne Freeman	C. Homer Neikirk	Erna E. Tyra
Eugene Gough	Carl D. Perkins	J. Wood Vance
Van Y. Greene	B. W. Porter	Walter R. Vansant
Ralph C. Hamilton	H. O. Porter	S. J. Wagner
C. L. Hammons	Kleber F. Price	Porter Wallace
T. H. Hickey	Hobart Rayburn	Harry F. Walters
Clyde S. Howard	Thomas Rigdon	Henry Ward
Chester Huffines	W. H. Riley	Otis White
R. L. Jackson	Joe E. Robinson	James H. Woods
John S. Juett	Lyman Roll	Mr. Speaker
William K. King	Jack Savage	—86

Mr. Joe E. Robinson offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 116 by adding after the last period the following sentence:

"This Act shall be known as the Bach-Scheben Act."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Bach moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Chapman moved that the Rules of this House be suspended for the purpose of introducing a bill.

Said motion was agreed to.

Thereupon Mr. Chapman introduced a bill entitled:

H. B. 335. An Act relating to motor vehicles; providing for the registration, regulation and licensing of motor trucks, truck tractors, and semi-truck trailers, house trailers, and classifying motor trucks according to weight, limiting and regulating the height, width, length and weight of said motor vehicles when operated upon the highways of the Commonwealth of Kentucky, and providing for the fees to be paid for such registration and appropriating and distributing said fees to the Department of Highways, to the various counties of the Commonwealth and to the toll bridge bond sinking fund of the Commonwealth of Kentucky, and repealing section 2739g-2d, Carroll's Kentucky Statutes, 1936 edition, and section 2739g-2d of Carroll's Kentucky Statutes, 1938 Supplement, being a part of Chapter Three of the Acts of the General Assembly at its first extraordinary session in 1938; also repealing sections 2739j-78, 2739j-78a, 2739j-78b, 2739j-78c, and 2739j-78d of Carroll's Kentucky Statutes, 1938 Supplement, being part of Chapter 171 of the Acts of the General Assembly, at its 1938 regular session; also repealing sections 2739g-82, 2739g-83, 2739g-84 and 2739g-85 Carroll's Kentucky Statutes, 1936 edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1: That section 2739g-2d Carroll's Kentucky Statutes, 1936 edition, and section 2739g-2d of Carroll's Kentucky Statutes, 1938 Supplement, being a part of Chapter Three of the Acts of the General Assembly at its first extraordinary

session of 1938, sections 2739j-78, 2739j-78a, 2739j-78b, 2739j-78c and 2739j-78d, Carroll's Kentucky Statutes, 1938 Supplement, being part of Chapter 171 of the Acts of the General Assembly at its 1938 Regular Session, sections 2739g-82, 2739g-83, 2739g-84, 2739g-85, Carroll's Kentucky Statutes, 1936 edition, be and the same are hereby repealed.

§ 2: DEFINITIONS

The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section:

(a) *Motor truck.* Motor truck as used in this Act shall mean any motor propelled vehicle designed for carrying freight or merchandise and not operated or driven on fixed rails or tracks; but shall not include any self-propelled vehicle designed primarily for passenger transportation.

(b) *Semi-truck trailer.* Semi-truck trailer as used herein shall mean a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor and intended for the carrying of freight or merchandise.

(c) *House Trailer.* House Trailer as used herein shall mean any two wheeled or single axle vehicle designed to be attached to, and having its front end supported by, a motor vehicle, and primarily designed and intended to be used as living quarters and not used for the purpose of transporting freight or merchandise.

(d) *Person.* Person as used herein shall include individual, partnership, association, trusts and corporations and the receivers, assignees, or agents of any of them.

(e) *Highway.* Highways as used in this Act shall mean and include all public roads, streets, avenues, alleys, boulevards, bridges, viaducts, trestles and the approaches thereto within the limits of the Commonwealth of Kentucky.

(f) *Director.* Director whenever used herein shall mean the Director of the Division of Motor Transportation.

(g) *Department.* Department as used herein shall mean the Department of Revenue.

(h) *Commissioner.* Commissioner whenever used herein shall mean the Commissioner of Highways.

(i) *Motor Vehicle,* operator, common carrier, contract carrier and certificate as used in this Act shall bear the same meaning as given in their definition under section 2739j-42 Carroll's Kentucky Statutes, 1936 edition.

(j) *Casual Operator.* Casual operator as used herein shall mean persons who operate motor truck on occasional trips into this Commonwealth and who shall make no more than four occasional trips during any calendar month.

§ 3: TRAILERS

No person shall operate any trailer upon the highways of the Commonwealth of Kentucky except such trailers as ere defined herein.

§ 4: WEIGHT

No person shall operate on any highway any motor truck, semi-trailer truck or house trailer the combined gross weight of which, including load, shall exceed thirty-two thousand (32,000) pounds.

§ 5: HEIGHT

No person shall operate on any highway in the Commonwealth of Kentucky any motor truck or semi-trailer truck or house trailer the height of which, including any part of body and load shall exceed twelve feet and six inches, but nothing in this Act shall be construed to require the Department of Highways or any other public authority to provide sufficient vertical clearances for such height as herein provided.

§ 6: WIDTH.

No person shall operate on any highway any motor truck, semi-trailer truck or house trailer the width of which, including any part of the body or load, shall exceed ninety-six (96) inches.

§ 7: LENGTH

No person shall operate on any highway any truck tractor or semi-trailer truck combination the length of which, including any part of the body or load, shall exceed thirty-five feet. No person shall operate on any highway any motor truck which is a single unit, including any part of body or load, which shall exceed twenty-eight (28) feet. No person shall operate on any highway of the Commonwealth of Kentucky a house trailer which exceeds twenty-five (25) feet in length.

§ 8: SPECIAL PERMITS AND REDUCTION OF LOAD LIMIT.

The Commissioner of Highways shall have authority to grant special permits for the occasional movements of freight by motor trucks or other motor vehicles carrying loads in excess of the gross length, height, weight or width as set out herein and the said Commissioner of Highways and the County Judges of the various counties of this Commonwealth shall have full authority to reduce the maximum gross weight, height, length or width of any motor truck or motor vehicle including load operating over lateral highways or secondary roads or county roads where through weakness of structure in either surface of or the bridges of such lateral highways, secondary roads or county roads, the maximum gross weight, height, length or width of said motor trucks or motor vehicles, including load, as provided herein will in the opinion of the Commissioner of Highways or the County Judges as herein set out damage or injure such roads or bridges. The authority herein set out shall be exercised by the Commissioner of Highways over any and all roads and bridges in the Common-

wealth of Kentucky constructed and/or maintained by the Department of Highways and the authority of the County Judges of the various counties of the Commonwealth of Kentucky as set out herein shall be over all county maintained roads or bridges. Whenever the Commissioner of Highways as herein provided shall determine that any road or bridge as above maintained will not support motor vehicles with the maximum weight, height, length and width as set out herein, the said Commissioner of Highways or the County Judge, as the case may be, shall post signs indicating the maximum gross weight, height, width and length of any motor vehicle permitted upon said road and it shall be unlawful for any person to operate a motor vehicle upon said road in excess of the gross weight, height, length or width as set out by said sign and any person violating such rule or regulation of the Commissioner of Highways or the County Judge as herein set out shall be guilty of a misdemeanor and fined not less than fifty dollars nor more than two hundred dollars.

§ 9: SCHEDULE OF FEES.

That as a condition precedent to the operation of any motor truck, house trailer as defined in this Act upon the highways, roads, streets or other public thoroughfares in the Commonwealth of Kentucky, the owner or operator thereof shall first register such motor truck, house trailer as provided for in this Act with the Department of Revenue and shall pay the following registration fees:

Class One: Farm Trucks.

Any person who applies for the registration of a motor truck having a capacity of three thousand pounds or less in addition to the requirements to secure registration for said truck, files with the County Court Clerk an affidavit stating that he is a farmer solely engaged in the production of crops, livestock or dairy products and that he owns a truck of the capacity of three thousand pounds or less and that he has caused to be painted upon the side of the bed of said truck

the words "Farmer's Truck" in red letters not less than three inches in height and that said truck for the calendar year in which it is registered shall not be used in the transportation of anything for hire but is to be used in transporting persons, food, provender, feed and machinery used in operating the said farm, and the products which are grown upon said farm, and for no other purpose, then in that event said person shall be permitted to register said truck a farm truck and the registration fee shall be $4.50.

Class Two. Any person who applies for registration of a truck in addition to the requirements to secure registration for said truck, files with the county court clerk an affidavit stating that a well-driller outfit used for the drilling of water wells has been mounted on and bolted to the chassis of the truck, that the truck for the calendar year in which it is to be registered shall not be used in the transportation of anything for hire, but is to be used only in the transportation of the well drilling outfit, in that event said person shall be permitted to register said truck and the registration fee therefor shall be $4.50.

Class Three. Motor truck with declared maximum gross weight, including vehicle and load, not more than ten thousand pounds, Registration fee $25.00.

Class Four. Motor trucks with declared maximum gross weight, including vehicle and load, of more than ten thousand pounds, Registration fee $50.00.

Class Five. Motor trucks with declared maximum gross weight, including vehicle and load, of more than fourteen thousand pounds and not in excess of eighteen thousand pounds, Registration fee $100.00.

Class Six. Motor trucks with declared maximum gross weight, including vehicle and load, of more than eighteen thousands pounds and not in excess of twenty-four thousand pounds, Registration fee $225.00.

Class Seven. Motor trucks with declared maximum gross weight, including vehicle and load, of more than twenty-four thousand pounds, and not in excess of twenty-eight thousand pounds, Registration fee $250.00.

Class Eight. Motor trucks with declared maximum gross weight, including vehicle and load, of more than twenty-eight thousand pounds, Registration fee $300.00.

Class Nine. House trailers not exceeding twenty-five feet in length to be attached to, pulled and towed by motor vehicle, Registration fee $5.00.

§ 10: TRUCKS PROHIBITED

No motor truck as defined in this Act shall be registered or permitted to operate upon the highways of this Commonwealth having a greater gross weight upon any one axle thereof in excess of sixteen thousand (16,000) pounds or having a maximum load in excess of six hundred (600) pounds per inch width of tire, and provided further that no two axle or single unit truck shall be permitted to operate upon the highway of this Commonwealth, the gross weight of which, including load, shall exceed twenty-four thousand (24,000) pounds, and provided further that no truck of any kind, character or description shall be permitted to operate upon the highways of this Commonwealth the gross weight of which shall exceed the sum of thirty-two thousand (32,000) pounds.

§ 11: Passenger Vehicles and School Busses Excluded. Nothing in this Act shall be deemed to include school busses or motor vehicles primarily designed for the hauling of passengers and said vehicles are expressly exempted from the provision of this Act and shall be licensed and taxed as is now provided by law.

§ 12: MANNER OF REGISTRATION.

The registration fees as provided for herein, the issuance of receipts, duplicates, tags and transfers of such receipts

and tags and the accounting for fees and all other things required to be done in connection with the same, shall be done at the time and in the manner as is now or may hereafter be provided by law.

§ 13: CREDITS.

If any motor vehicle has been registered and the license plates or identification tags issued by the County Court Clerk for the calendar year 1940 for said motor truck or motor vehicle required to pay the fees set out in the act, and the owner of said motor vehicle has heretofore paid the fees as required by law at the time said motor vehicle was registered and/or paid to the Director of the Division of Motor Transportation the weight tax as required by section 2739j-78 Carroll's Kentucky Statutes, 1938 Supplement, being part of Chapter 171 of the Acts of the General Assembly at its 1938 session, said owner upon the registration or re-registration of said truck after the effective date of this act as required herein shall be given credit on his application and/or registration or re-registration of said truck for the amount paid for license tags or identification tags and also credit for any and all weight tax paid under the provisions of the above mentioned section. The County Court Clerk, however, before giving credit for the weight tax for the calendar year 1940 paid to the Director of the Division of Motor Transportation shall require the applicant to file with the said application for the registration or re-registration of said motor truck as herein provided, a receipt showing the amount having been paid as weight tax above mentioned together with the certificate of registration issued by the County Court Clerk. When the difference due under the provisions of this Act shall have been paid, the County Court Clerk shall note the same upon the certificate heretofore issued or to be issued for the registration or re-registration of said motor truck and collect the difference and permit the same as he is required by law to do in the case of original registrations. If

any motor truck or other motor vehicle required to be registered with the County Court Clerk as now provided by law prior to the effective date of this act, the owner thereof shall file with the County Court Clerk within thirty days after the effective date of this act a declared maximum weight as provided herein for said truck and in the event that the original registration fee paid to the County Court Clerk shall exceed the amount required under the provisions of this act for the declared maximum weight, no refund shall be made to the owner of said truck, but said truck may be permitted during the calendar year 1940 to haul upon the highways the maximum load limit that the fee paid will permit relative to the fees required under the provisions of this act.

§ 14: OTHER TAX.

Nothing in this act shall be construed to repeal, modify, change or alter the provisions of Chapter Fourteen (14) of the Acts of the General Assembly at its 1936 third extraordinary session, and the tax imposed under provisions of section 4291i-2 shall be in addition to any and all fees required under the provisions of this Act.

§ 15: APPLICATION FOR REGISTRATION

Any person making application for registration of a motor truck or motor vehicle or the re-registration of any such motor truck or motor vehicle required to pay the fees as provided under the provisions of this act, shall make such application in quadruplicate and in addition to the information as now required by law on applications for registration of motor vehicles, the applicant shall declare the maximum gross weight or load to be hauled upon the highways of this Commonwealth by said truck at any time during the calendar year, and the length, width and height of said motor truck or motor vehicle. One copy of such application shall be forwarded to the Department of Revenue as is now provided by law; one copy to the Director of the Division of Motor Transportation; one copy retained by the County Court Clerk and

one copy delivered to the person making the application or registering said motor truck or motor vehicle. Any person operating any motor truck or motor vehicle required to be registered and licensed under the provisions of this Act shall at all times have in his possession when said truck is being operated upon the highways of this Commonwealth the copy of the application for registration which shall show the declared maximum load limit of said truck and the height, weight and width of same.

Any person changing or altering the application for the registration of any motor truck or the certificate issued by the County Court Clerk in any manner so as to indicate a weight different from the maximum declared gross weight or load limit of said truck, or a different height, length or width from that declared, shall be guilty of a misdemeanor and upon conviction in any Court in this Commonwealth, shall be fined not less than one hundred dollars nor more than three hundred and fifty dollars.

§ 16: LICENSE PLATES OR IDENTIFICATION TAGS.

The license plates or identification tags to be issued to motor trucks or motor vehicles as required to be registered under the provisions of this act for the calendar year 1940 shall be the same license plates as have heretofore been forwarded to the County Court Clerks. For the calendar year of 1941 and for each year thereafter such license plates and identification tags for motor trucks or motor vehicles required to be registered under the provisions of this Act shall contain such letters, wording, numbers as may be directed by the Director of the Division of Motor Transportation and the Commissioner of Revenue so that each motor truck or motor vehicle registered under the provisions of this Act shall bear a license plate or identification tag indicating the class in which said truck rightfully belongs or has been registered. Before any change in license plates or

identification tags shall be made by the Director of the Division of Motor Transportation or the Commissioner of Revenue as set out herein. Regulations shall be adopted by the Director of the Division of Motor Transportation and the Commissioner of Revenue setting out in detail the kind of license plates or identification tags and the wording and lettering to be printed thereon. When such regulation has been duly adopted, requisition shall be made for such license plates and identification tags as is now provided by law for the manufacturing and furnishing of license plates for other motor vehicles.

§ 17: EXEMPTIONS.

The provisions of this Act shall not apply to motor trucks, semi-trailers, trucks or trailers owned by, or by any agency of, United States, the Commonwealth of Kentucky, or any county, or city, or incorporated town therein.

All motor trucks properly licensed and registered in the State in which the owner is a bona fide resident shall be permitted to make casual or regular trips into this Commonwealth if said trucks enter the Commonwealth at any point within any incorporated city, town or municipality and deliver freight or merchandise to citizens of this State within the limits of said incorporated town, city or municipality or unload or load freight or merchandise at a depot or a fixed terminus within said incorporated city, town or municipality, and the operation of such trucks shall not require any license, permits or fees as prescribed in this Act, provided, however, non-resident owners of motor trucks or motor vehicles shall be exempt from the provisions of this act if said motor truck or motor vehicle is not operated for hire and such non-resident owner may be permitted to make casual trips into the Commonwealth of Kentucky and over and upon its highways by making application to the Director of the Division of Motor Transportation for each trip so contemplated or to be made, and further providing that not more than four trips

shall be made in any calendar month. The application if granted by the Director of the Division of Motor Transportation shall be without cost to the applicant and may be issued under such rules and regulations as may be adopted by the Director of the Division of Motor Transportation tc carry out the provisions of this section.

Any motor truck operating exclusively within the incorporated limits of any city or town, including trucks owned by non-resident operators, whether for hire or otherwise, entering the state at a point within any incorporated city or town, and which truck is not operated outside of the incorporated limits of said city or town, shall be exempt from the provisions of this act in respect to weight, height, length and width, including load, provided, however, that all said motor trucks as are required to be registered under the provisions of this act in this Commonwealth shall declare the maximum load height, width, and length, including the load of said trucks as herein provided and pay the registration fee as provided for herein, according to the class in which said truck is declared.

§ 18. CASUAL OPERATORS OF MOTOR TRUCKS FOR HIRE.

Any non-resident owner desiring to qualify as a casual operator of motor trucks for hire, or otherwise, except as expressly exempt under section seventeen hereof, upon the highways, roads, streets and other thoroughfares of this Commonwealth shall make application to the Director of the Division of Motor Transportation for a casual operator's permit, which application shall be accompained by a registration fee of five dollars either in cash or certified check and in addition thereto file policies of insurance covering personal libility and property damages in such amounts as are now provided by law for other motor trucks operating for hire in this state, and in addition thereto evidence of the authority to operate in inter-state commerce. The Director

of the Division of Motor Transportation shall have the full authority to determine when an operator is a casual operator or otherwise. When the Director of the Division of Motor Transportation has determined an operator is a casual operator as above set out, such operator may be issued a permit as such. When such permit shall have been granted or issued to the operator, in addition to the registration fee above set out, such operator shall be required to pay the following fees for each and every trip on, into or over the roads, streets, highways, or other thoughfares of the Commonwealth of Kentucky. Such fees shall be paid to the Director of the Division of Motor Transportation in such form and manner as may be prescribed by rules and regulations adopted by the Director of the Division of Motor Transportation and approved by the Department of Revenue.

(a) For each motor truck operated for hire on the roads, streets, highways and other thoroughfares of this Commonwealth the combined maximum gross weight including vehicle and load shall not exceed eighteen thousand pounds, two dollars and fifty cents per trip.

(b) For each motor truck operated for hire on the roads, streets, highways and other thoughfares of this Commonwealth the combined maximum weight including vehicle and load shall exceed eighteen thousand pounds, five dollars per trip.

Nothing herein however shall be construed as to prevent the owner of said motor vehicle from registering said vehicle under section nine and paying the fees prescribed thereunder according to the class in which said truck should be registered. In event that said truck is registered under the provisions of section nine the fee per trip as provided for herein shall be waived.

§ 19. RECIPROCAL AGREEMENTS

Nothing in this act shall be construed to prevent the Commonwealth of Kentucky or its properly designated agents

from entering into reciprocal agreements with other states permitting motor vehicles, motor trucks or house trailers to operate upon and over the roads, streets, highways and thoroughfares of this Commonwealth when such motor vehicle, motor truck or house trailer has been properly registered in the state where the owner of said motor vehicle, motor truck or house trailer is a bona fide resident.

§ 20: ENFORCEMENT.

The enforcement of this Act shall be placed in the division of Motor Transportation, provided, however, that for the violation of any provision of this act any arresting officer authorized by law to make arrests for the violation of traffic laws of this Commonwealth shall have the authority and it shall be his duty to arrest any person operating motor trucks or motor vehicles in violation of any provision of this act. The Director of the Division of Motor Transportation shall have general supervision over the enforcement of any provision of this act and it shall be his duty to check every application for registration of a motor truck or motor vehicle provided for under the provisions of this act and in the event the Director of the Division of Motor Transportation shall determine that any motor truck registered by the County Court Clerk as herein provided shall have been registered in a classification other than that in which it rightfully belongs, he shall notify the owner of said motor truck or motor vehicle to re-register the same in the classification in which it rightfully belongs and upon the failure of the owner of said motor truck or motor vehicle to comply with the orders of the Director of the Division of Motor Transportation in regard to the registering of said motor truck or motor vehicle or in any other respect as to the violation of the provisions of this act, the Director of the Division of Motor Transportation is hereby vested with the authority to suspend or revoke the license or permit to operate said truck upon the roads, streets, highways or other thoughfares of this Com-

monwealth. The order of revocation or suspension may be set aside by the Director of the Division of Motor Transportation in his discretion if the owner of said motor truck or motor vehicle shall comply with the order of the Director.

From any order of suspension or revocation made by the Director of the Division of Motor Transportation, the aggrieved party may appeal to the Franklin Circuit Court in the same manner as is now provided by law for appeals from rulings and/or decisions of the Director of the Division of Motor Transportation.

§ 21: REGISTRATION FEES FOR PART OF YEAR.

If any person becomes the owner of a motor truck as defined in this act on or after January First of any year, he must register same for only a part of said year as provided under section 2739g-4 Carroll's Kentucky Statutes, 1936 edition.

§ 22: REFUND.

If any motor truck upon which the license tax and registration fee as provided for herein has been paid shall be destroyed by fire or accident so that such motor truck shall be rendered entirely useless and unfit for service, that portion of the unused license fee represented by the unexpired part of the calendar year may be refunded as provided under section 2739g-2e Carroll's Kentucky Statutes, 1936 edition.

§ 23: PENALTIES.

Any person operating any motor vehicle over the roads, streets, highways, or thoroughfares of this Commonwealth in excess of the maximum limit herein provided or a greater gross weight than that authorized by the registration thereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than three hundred dollars and in addition thereto shall be compelled to register such motor truck in the class within which

its then weight shall then fall, which registration shall not be taken for a less period of time than one year, but in computing the amount of registration fee due in such case, the person so registering said vehicle shall be credited with the amount of registration fee paid for the class in which he has registered such truck. On all amounts due the state for such additional fee as herein provided for shall be added a fifty per cent penalty for the failure to properly register said truck at the time of its first registration. No motor truck found to be loaded in excess of the maximum weight provided under the class in which the same has been registered shall be taken from the charge and custody of the arresting officer until the fine imposed by this act upon a conviction in the proper courts of this Commonwealth shall have been paid or secured, nor until the registration fees provided by this act shall have been paid and the proper identification tags affixed to such motor truck; provided, further that no such vehicle found to have gross weight in excess of the maximum prescribed by law shall be permitted to continue on its way until the weight thereof is reduced to the lawful limit.

Any person violating any other provision of this act where no express penalty is provided herein shall likewise be guilty of a misdemeanor and upon conviction in any Court in this Commonwealth shall be fined not less than twenty-five dollars nor more than three hundred dollars, provided that each day that said motor truck is operated in violation of any provision of this section shall be deemed a separate offense.

§ 23½.

To determine for the purpose of this act the maximum weight, height, width or length of any motor truck, any truck tractor motor truck and semi-trailer combination shall be considered one unit, provided that for the purpose of determining the classification in which said motor truck for

the purpose of registration herein the gross declared maximum weight, length, height, and width shall likewise be determined as one unit.

§ 24: FEES.

The Clerks of the various county courts are hereby authorized to collect as a fee for the registering of said motor vehicle or motor truck as provided for hereunder, such fees as are now provided by law for the clerk for registering motor vehicles.

§ 25: APPROPRIATION.

(a) All funds collected under the provisions of this act shall be collected by the Department of Revenue in the manner and through the agencies provided herein. There is hereby appropriated from said fund to the Department of Revenue and the Division of Motor Transportation such sum or sums as may be necessary to administer the provisions of this act for the remainder of the fiscal year ending June 30, 1940, and such, an additional sum is hereby appropriated to the Department of Revenue and the Division of Motor Transportation for the biennium ending June 30, 1942, as may be necessary to administer the provisions of said act. Such appropriations as above enumerated for the fiscal year ending June 30, 1940 and the binnium ending June 30, 1942, shall be in addition to any and all appropriations heretofore made to said departments for said biennial period. The appropriation for administration for any period as herein set out shall not exceed 5% of the amount collected.

(b) The Department of Revenue, after deducting the cost of the administration of this act as above set out, shall place to the credit of the State Highway Road Fund one-half of all the remainder of the funds collected under the provisions of this act to be used by the Department of Highways for the purpose of constructing, reconstructing or maintaining state highway roads or bridges in the Commonwealth of Kentucky.

(c) One-fourth of the amount collected under the provisions of this act after the cost of administration as above provided shall have been deducted, shall be credited to a fund which shall be known as the County Refund Account and at the end of any calendar year or as soon thereafter as practicable the Department of Revenue and the Department of Finance shall cause said fund to be distributed equally among the one hundred and twenty counties of this Commonwealth. Any funds received by any county under the provisions of this act shall be placed in the sinking fund of said county for the purpose of paying the principle and interest of any outstanding road and bridge bonds of said county and shall be used for no other purpose as long as said county shall have any outstanding road and bridge bonds, provided, however, if any county in this Commonwealth shall not have any outstanding road and bridge bonds at the time said county shall receive any funds under the provisions of this act, said county shall create a special fund to be known as the State Refund Account and the fiscal court of said county or counties shall not appropriate or expend any of said fund for any purpose except the construction, reconstruction or maintenance of such county roads as may be designated as rural highway roads by order properly entered by the fiscal court designating such roads as rural highway roads and when said roads to be constructed, reconstructed or maintained under the supervision of the Commissioner of Rural Highways of the Commonwealth of Kentucky.

(d) One-fourth of the amount collected under the provision of this act after the cost of administration as above provided shall have been deducted shall be credited to a special fund which fund shall be designated as the Special Kentucky State Toll Bridge Bond Sinking Fund from which fund the Commissioner of Highways with the approval of the Department of Finance shall from time to time retire any outstanding toll bridge bonds. However, the Commis-

sioner of Highways shall with the approval of the Commissioner of Finance use said fund in retiring toll bridge bonds as provided for herein in the order in which said bonds were issued, and providing further that said fund shall not be used for any other purpose so long as there remains any toll bridge bonds outstanding against any project in this Commonwealth. If and when all toll bridge bonds have been retired the appropriation provided in this sub-section shall go to the counties as provided in sub-section C.

§ 26: SEVERABILITY CLAUSE

It is hereby declared that it is the legislative intent that each and every section of this Act shall be deemed severable and independent of each and every other section and in the event any section shall be declared unconstitutional or void for any reason, such declaration shall not void or effect any other section hereof, as the General Assembly would have enacted this legislation with any section or part thereof omitted and the General Assembly expressly declares that each and every section or part hereof is severable from and independent of any other section contained herein.

§ 27: REPEALING.

All laws or parts of laws in conflict herewith are hereby repealed only to the extent of such conflict.

§ 28: EMERGENCY CLAUSE.

WHEREAS, the present law in regard to licensing motor vehicles requires all such vehicles to be registered and license plates or identification tags placed on said vehicles on or before March 1, 1940, for the calendar year of 1940, and

WHEREAS, motor trucks and house trailers as defined in this act should be required to have 1940 license plates or identification tags placed thereon at the same time other motor vehicles are required to obtain license plates or identification tags, and

WHEREAS, no provision is made under the law for a

fee to be paid by non-resident casual operators for hire or regulating the operation of non-resident casual motor vehicles not for hire in the Commonwealth of Kentucky, and

WHEREAS, the Commonwealth of Knetucky is not receiving proper fees for the use of the highways under the law as it now exists,

NOW, THEREFORE, in order to have every motor vehicle, including motor trucks and house trailers, as defined in this act registered and the license plates or identification tags issued at the same time, and in order to obtain fees for the use of the highways of this Commonwealth from such operations as are not included under the law as it now exists, an emergency is declared to exist and this act shall become effective immediately after it passage and approval by the Governor as required by law.

Ordered that said bill be printed and referred.

The Speaker announced that he had referred bills previously introduced, as follows, viz.:

H. B. 287. To Committee on Revenue and Taxation No. 1.

H. B. 288. To Committee on Revenue and Taxation No. 1.

H. B. 289. To Committee on Judiciary.

H. B. 290. To Committee on Game and Fish No. 1-A.

H. B. 291. To Committee on Revenue and Taxation No. 1.

H. B. 292. To Committee on Kentucky Statutes No. 1.

H. B. 293. To Committee on Kentucky Statutes No. 1.

H. B. 294. To Committee on Cities of the First Class.

H. B. 295. To Committee on Kentucky Statutes No. 1.

H. B. 297. To Committee on Codes of Practice.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on to-morrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House recessed.

WEDNESDAY, FEBRUARY 7, 1940

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	James W. Chapman	Cecil Florence
J. Everett Bach	S. B. Chrisman	Wayne Freeman
H. T. Baker	John Coulter	Eugene Gough
G. M. Ballard	John H. Cox	Van Y. Greene
Robert E. Barry	Pink G. Curd	Ralph C. Hamilton
Wm. T. Beard	F. E. Daugherty	C. L. Hammons
Alvis S. Bennett	Stanley S. Dickson	T. H. Hickey
Sterling B. Blake	Louis B. Dugan	Clyde S. Howard
Douglas T. Bolling	Forest C. Easley	Chester Huffines
J. F. Bosworth	D. E. Edwards	John M. Hunnicutt
W. S. Brim	Harry W. Ennis	J. B. Jarboe, Jr.
Gus A. Brooks	R. R. Ernst	Chas. X. Jones
Randolph A. Brown	Carlos Fallis	William K. King
Haynes Carman	T. P. Fitzpatrick	W. A. Lamkin, Jr.

Robert E. Lee	C. Homer Neikirk	J. Claude Stacy
Harvey D. Leonard	Carl D. Perkins	Ray J. Stengel
Edward Leslie	B. W. Porter	Henry Stewart
W. Paul Lyon	H. O. Porter	W. St. Clair Stuart
C. C. May	Kleber F. Price	T. M. Swope
T. B. McConnell	Hobart Rayburn	Otis C. Thomas
Frank C. McElwain	Thomas Rigdon	Erna E. Tyra
E. Hayes McMakin	Joe E. Robinson	J. Wood Vance
Norris McPherson	Lyman Roll	Walter R. Vansant
G. Sam Milam	Jack Savage	S. J. Wagner
Stanley C. Moebus	Carl Scheben	Porter Wallace
John B. Mollette	Leon J. Shaikun	Henry Ward
Davis Moore	Faust Y. Simpson	H. L. Waterfield
J. Lee Moore	Otto Smither	Otis White
Joe T. Morgan	G. C. Springate	James H. Woods

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Mr. Howard moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Ballard moved that a leave of absence be granted to Mr. Hunt.

Said motion was agreed to.

Mr. Gough offered the following resolution, viz.:

Resolution recommending the establishment of a system of short agricultural courses, to be known as "The Farm Folk School"

Whereas, there now exists a need for closer coordination of education and actual farming, and

Whereas, some states are successfully meeting this problem with a system of short agricultural courses generally known as "The Farm Folk School" and

Whereas, certain new developments will make possible the adoption of such a program in Kentucky,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That this Assembly does endorse the idea of the Farm Folk School, and does recommend that the Department of Agriculture and the College of Agriculture make full use of present facilities, and if possible establish such a school.

If such is not possible, the Commissioner of Agriculture and the head of the College of Agriculture shall make a report to the next regular session of the General Assembly as to the need and advisability of new legislation.

Said resolution was adopted.

A message was received from the Governor announcing that he returns to this House where it originated, without his signature and approval, a resolution entitled:

H. Res. 1. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of $750.00 for a contingent fund for the Clerk of the House.

Together with his objections and veto to said resolution and his reasons therefor.

(For Resolution see House Journal of January 9)

The objections of the Governor and his reasons therefor, are as follows, viz.:

Veto Message—House Resolution No. 1.

The Governor of Kentucky is of the opinion that he should veto this resolution because it appropriates money out of the general revenues instead of appropriating it from the appropriation made for Legislative sessions. It is

defective further in that it provides that the Auditor of Public Accounts shall draw the warrant for payment. Obviously this cannot be done since the Auditor no longer has this function. In view of this situation it appears best that the resolution be vetoed and it is suggested that the General Assembly re-enact the resolution.

This the sixth day of February, 1940

KEEN JOHNSON
Governor of the Commonwealth of Kentucky

Mr. Hunnicutt moved that the House do now reconsider said resolution.

Said motion was agreed to.

After such reconsideration, the question was taken upon the passage of said resolution, the objections and veto of the Governor to the contrary notwithstanding and it was decided in the negative, the objections and veto of the Governor being sustained.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, the objections and veto of the Governor to the contrary notwithstanding, were as follows, viz.:

Those who voted in the negative were—

C. W. Anderson, Jr.	Douglas T. Bolling	John Coulter
J. Everett Bach	J. F. Bosworth	John H. Cox
H. T. Baker	W. S. Brim	Pink G. Curd
G. M. Ballard	Gus A. Brooks	F. E. Daugherty
Robert E. Barry	Randolph A. Brown	Stanley S. Dickson
Wm. T. Beard	Haynes Carman	Louis B. Dugan
Alvis S. Bennett	James W. Chapman	Forest C. Easley
Sterling B. Blake	S. B. Chrisman	D. E. Edwards

Harry W. Ennis	Edward Leslie	Carl Scheben
R. R. Ernst	C. C. May	Leon J. Shaikun
Carlos Fallis	T. B. McConnell	Ray O. Shehan
T. P. Fitzpatrick	Frank C. McElwain	Faust Y. Simpson
Cecil Florence	E. Hayes McMakin	Otto Smither
Wayne Freeman	Norris McPherson	G. C. Springate
Eugene Gough	Stanley C. Moebus	J. Claude Stacy
Van Y. Greene	John B. Mollette	Ray J. Stengel
Ralph C. Hamilton	Davis Moore	Henry Stewart
C. L. Hammons	J. Lee Moore	W. St. Clair Stuart
T. H. Hickey	Joe T. Morgan	T. M. Swope
Clyde S. Howard	C. Homer Neikirk	Otis C. Thomas
Chester Huffines	Carl D. Perkins	Erna E. Tyra
John M. Hunnicutt	B. W. Porter	J. Wood Vance
R. L. Jackson	H. O. Porter	Walter R. Vansant
J. B. Jarboe, Jr.	Kleber F. Price	S. J. Wagner
Chas. X. Jones	Hobart Rayburn	Porter Wallace
William K. King	Thomas Rigdon	Henry Ward
W. A. Lamkin, Jr.	W. H. Riley	H. L. Waterfield
Robert E. Lee	Joe E. Robinson	James H. Woods
Harvey D. Leonard	Jack Savage	—86

Mr. Hunnicutt moved that the vote by which the House refused to pass said resolution over the objections and veto of the Governor, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A further message was received from the Governor announcing that he returns to this House where it originated, without his signature and approval, a resolution entitled:

H. Res. 2. Resolution providing for the purchase of "The Legislative Digest."

Together with his objections and veto to said resolution and his reasons therefor.

(For resolution see House Journal of January 9)

Veto Message—House Resolution No. 2

The Governor of Kentucky is of the opinion that he should veto this resolution because, obviously through inadvertence, it directs that the Auditor of Public Accounts shall issue the warrant in payment. Section 5 directs that the Auditor of Public Accounts shall enter the charge against the appropriations kept by him. The resolution directs the Auditor of Public Accounts to perform duties which were transferred from him to the Department of Finance on January 1, 1940. In view of this situation, it seems best that the resolution be vetoed and that it be re-enacted in proper form.

This the second day of February, 1940.

KEEN JOHNSON
Governor of the Commonwealth of Kentucky.

Mr. Hunnicutt moved that the House do now reconsider said resolution.

Said motion was agreed to.

After such reconsideration, the question was taken on the passage of said resolution, the objections and veto of the Governor to the contrary notwithstanding and it was decided in the negative, the objections and veto of the Governor being sustained.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, the objections and veto of the Governor to the contrary notwithstanding, were as follows, viz.:

Those who voted in the negative were—

C. W. Anderson, Jr.	H. T. Baker	Robert E. Barry
J. Everett Bach	G. M. Ballard	Alvis S. Bennett

Sterling B. Blake	T. H. Hickey	H. O. Porter
Douglas T. Bolling	Clyde S. Howard	Kleber F. Price
J. F. Bosworth	Chester Huffines	Hobart Rayburn
W. S. Brim	John M. Hunnicutt	Thomas Rigdon
Gus A. Brooks	R. L. Jackson	W. H. Riley
Randolph A. Brown	J. B. Jarboe, Jr.	Joe E. Robinson
Haynes Carman	Chas. X. Jones	Jack Savage
James W. Chapman	William K. King	Carl Scheben
S. B. Chrisman	W. A. Lamkin, Jr.	Leon J. Shaikun
John Coulter	Robert E. Lee	Faust Y. Simpson
John H. Cox	Harvey D. Leonard	Otto Smither
Pink G. Curd	Edward Leslie	G. C. Springate
F. E. Daugherty	C. C. May	Ray J. Stengel
Stanley S. Dickson	T. B. McConnell	Henry Stewart
Louis B. Dugan	Frank C. McElwain	W. St. Clair Stuart
Forest C. Easley	E. Hayes McMakin	T. M. Swope
Harry W. Ennis	Norris McPherson	Otis C. Thomas
R. R. Ernst	Stanley C. Moebus	Erna E. Tyra
Carlos Fallis	John B. Mollette	J. Wood Vance
Cecil Florence	Davis Moore	Walter R. Vansant
Wayne Freeman	J. Lee Moore	S. J. Wagner
Eugene Gough	Joe T. Morgan	Porter Wallace
Van Y. Greene	C. Homer Neikirk	Henry Ward
Ralph C. Hamilton	Carl D. Perkins	H. L. Waterfield
C. L. Hammons	B. W. Porter	James H. Woods

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Mr. Hunnicutt moved that the vote by which the House refused to pass said resolution over the objections and veto of the Governor, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended and that he be granted unanimous consent to introduce resolutions designed to correct the errors in the resolutions vetoed by the Governor.

Said motion was agreed to.

Thereupon by unanimous consent, the following resolutions were introduced by Mr. Hunnicutt, viz.:

H. Res. 60. RESOLUTION appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the Clerk of the Senate, and appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the Clerk of the House.

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That for the purpose of paying such expenses as the Chief Clerk of the Senate of Kentucky is directed to incur by the Senate of Kentucky, there is hereby set aside, out of the appropriation made by Chapter 1 of the Acts of 1938 for legislative sessions, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00), and for the purpose of paying the expenses incurred by the Chief Clerk of the House of Representatives, under the direction of the House of Representatives of the Commonwealth of Kentucky, there is hereby set aside, out of the appropriation made by Chapter 1 of the Acts of 1938 for legislative sessions, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00). Said respective funds shall be paid out on warrant of the Department of Finance issued on requisition of the Chief Clerk of the Senate and of the House of Representatives.

H. Res. 61. RESOLUTION providing for the purchase of "The Legislative Digest."

Said resolution is as follows, viz.:

WHEREAS, it is a matter of importance and convenience that each Representative and each Senator be advised as to the various and detailed steps of legislation; and

WHEREAS, the General Assembly for each of the past sessions since 1912 has approved and adopted as its official publication "The Legislative Digest", published under the management of competent and experienced persons, the purpose of which is to fully advise from day to day the officials and public of the Commonwealth as to matters affecting them in an intelligent and prompt manner; now, therefore

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. The State Journal Company hereby is authorized, requested and directed to furnish two hundred (200) copies of "The Legislative Digest" daily for delivery and distribution as hereinafter provided. The State Journal Company will be paid the sum of Two Thousand ($2,000.00) dollars for furnishing two hundred copies of "The Legislative Digest" daily as provided in this Resolution, which amount hereby is fixed, determined, approved and allowed as a contingent expense of the 1940 regular session of the General Assembly of Kentucky. Said amount will be paid on or before March 30, 1940, out of the appropriation made by Chapter 1 of the Acts of 1938 for legislative sessions. The State Journal Company will present to the Speaker of the House and to the President of the Senate its bill for Two Thousand ($2,000.00) dollars and the Speaker of the House and the President of the Senate hereby are authorized and directed to approve said bill for payment out of the appropriation hereinabove referred to; and when said bill is so approved, the Department of Finance shall issue its warrant upon the State Treasurer in payment thereof, and the State Treasurer shall issue and deliver a check upon the State Treasury for the payment thereof.

§ 2. The State Journal Company hereby is directed to furnish and deliver daily to the Clerk of the House one hundred and ten (110) copies of "The Legislative Digest" for distribution to the members of the House and to such

officers of the House as the Speaker may direct; to furnish and deliver daily to the Clerk of the Senate forty-five (45) copies of "The Legislative Digest" for distribution to the members of the Senate and to such officers of the Senate as the President of the Senate may direct; and to furnish and deliver daily the remaining forty-five (45) copies of "The Legislative Digest" to the Governor of the Commonwealth of Kentucky and to such departments, officers and employes of the Commonwealth as the Governor of the Commonwealth, the President of the Senate and the Speaker of the House may direct. The Speaker of House, the President of the Senate and the Governor of the Commonwealth hereby are requested to furnish to the State Journal Company a list of the departments, officers and employes to whom said copies are to be furnished as hereinabove provided. The word "daily" as hereinabove used shall be construed to mean each day that the House or Senate is in session.

§ 3. "The Legislative Digest" hereby is adopted and approved as the official publication of the General Assembly of Kentucky.

§ 4. The Clerk of the House of Representatives, on the passage of this Resolution and the concurrence therein by the Senate, hereby is directed to furnish and deliver to the Department of Finance an attested or certified copy of this Resolution; and the amount hereinabove provided to be paid shall be noted and entered on the books of the Department of Finance as a charge against the appropriation hereinabove referred to.

Ordered that said resolutions be printed and referred

To Committee on Appropriations No. 1.

Mr. Neikirk moved that the privilege of the floor be extended to Mr. Henry Plum.

Said motion was agreed to.

Mr. Ennis moved that the privilege of the floor be extended to Mr. John Gorin of Bowling Green, Kentucky.

Said motion was agreed to.

Mr. Howard moved that the privilege of the floor be extended to Messrs. F. J. Snyder and Robert Duff.

Said motion was agreed to.

Mr. King moved that the privilege of the floor be extended to Messrs. Joe Turner and Hal Spears of Lexington, Kentucky.

Said motion was agreed to.

Mr. May moved that the privilege of the floor be extended to Mr. G. W. Leslie of Cannel City, Kentucky.

Said motion was agreed to.

Mr. Curd moved that the privilege of the floor be extended to Mr. Hall Hood, Mr. Mike Wagner, Mr. and Mrs. L. Robertson of Murray, Kentucky.

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be extended to Messrs. R. W. Snyder, Sr., and R. W. Snyder, Jr., of Louisville, Kentucky.

Said motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers, and penalties relating to

the listing, assessment, and taxation of certain intangible property.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Fitzpatrick offered the following resolution, viz.:

H. Res. 63. Resolution felicitating the county of Kenton and its citizens in the celebration of the one hundredth anniversary of its creation, and memorializing such event.

Whereas, the county of Kenton, will from June 14th 1940, until June 23rd, 1940, celebrate at Covington, Kentucky, the One Hundredth anniversary of its creation, and

Whereas, the county of Kenton, has furnished to the State and Nation many prominent and distinguished citizens in the many walks of human endeavor, and has contributed much to the religious; commercial; agricultural and industrial progress and development of our State and Nation, and

Whereas, it behooves the General Assembly of this great Commonwealth to take official cognizance of this great and historical event; therefore

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That in recognition of the many contributions made by the county of Kenton, and its citizens, to the State of Kentucky and the Nation in the advancement of religion, the arts and sciences, and in the development of agriculture, commerce and industry, we hereby extend our official and happy felicitations to the county of Kenton, and its citizens, on the One Hundredth anniversary of its creation, and in its name and on its behalf extend to all of its citizens, now residing in other cities or states, an invitation to return to their home county and help it and its citizens to celebrate from June 14th, 1940 to June 23rd, 1940, this happy and momentous event.

Section 2. The Secretary of State is hereby directed to forward a copy of this resolution, properly attested under the seal of the Commonwealth of Kentucky, to the presiding Judge and Board of Commissioners of the county of Kenton.

Section 3. This resolution shall take effect immediately when passed in accord with law.

Said resolution was adopted.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Shaikun of the Committee on Cities of the First Class.

S. B. 108. An Act to amend Sec. 2925 of Article 19, Chapter 89 of the Acts of the General Assembly of 1902, relating to the appointment, powers and compensation of a pro tem Judge of the Police Court in cities of the first class, etc.

By Mr. May of the Committee on Criminal Law.

S. B. 53. An Act to amend sec. 429 of the Criminal Code of Practice, and to provide for appeals from judgments upon trials under writs of habeas corpus.

By Mr. Milam of the Committee on Alcoholic and Liquor Control No. 1.

H. B. 276. An Act to amend the Alcoholic Control Law of 1938.

H. B. 327. An Act to create exporter's license and providing for the sale and export of distilled spirits and wine.

H. B. 284. An Act relating to alcoholic beverages, repealing, amending, and re-enacting Sec. 17 of Chapter 2 of the Acts of the General Assembly of 1938.

With a Committee amendment thereto.

H. B. 59. An Act amending and re-enacting Sec. 2554b-164 of Baldwin's Kentucky Statute Service supplement to Carroll's Official Kentucky Statutes of 1936, relating to the regulation of advertising by persons licensed by the State Alcoholic Board.

H. B. 237. An Act to repeal, amend and re-enact Sec. 55½ of Chapter 2 of the Acts of the General Assembly at its 1938 Regular Session, relating to cash sales of alcoholic beverages or distilled spirits.

Without an expression of opinion.

By Mr. Gough of the Committee on Social Security.

H. B. 251. An Act relating to unemployment compensation.

With Committee amendments thereto.

By Mr. J. Lee Moore of the Committee on Appropriations No. 1.

H. Res. 23. Resolution appropriating from the General Fund of the State of Kentucky $110.60 to pay a claim for services rendered by Cecil Pennington in performance of his duties as sheriff of Elliott county.

With the expression of opinion that said bills and resolution ought to pass.

Said bills and resolution were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 164. An Act to amend and re-enact Chapter 219 of the Acts of the General Assembly of 1893, Article 1, Section 1, to authorize the issuance of execution and garnishee on personal judgments.

With the expression of opinion that said bill ought not to pass.

No motion having been made to advance said bill to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken by the House on said bill, it was ordered that said bill be not read at length the first time and so, said bill was rejected.

The House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. B. 80. An Act to declare the necessity of creating governmental subdivisions of the State, to be known as "Soil Conservation", etc.

With Committee Amendments thereto.

H. B. 18. An Act regulating the relation between owners and operators of motor vehicles and certain passengers therein.

H. B. 210. An Act repealing and re-enacting Sec. 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding officers in primary elections.

H. B. 211. An Act repealing and re-enacting Sec. 1550-6, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, governing nominating papers, etc.

H. B. 212. An Act repealing and re-enacting Sec. 1550-23, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding the appointment of challengers and inspectors in primary elections.

H. B. 221. An Act relating to alimony, and amending sec. 2122 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 248. An Act relating to revenue and taxation, and to tax the gross amount of bank night awards.

H. Res. 33. Resolution directing the payment to William D. Overton of the sums directed to be paid, etc.

H. B. 191. An Act to amend Sec. 273 of Carroll's Criminal Code of Practice, 1938 Edition.

H. B. 266. An Act to repeal, amend and re-enact Sec. 1061a-1 Carroll's Kentucky Statutes, relating to a stenographer, or clerk for county judges.

With committee amendments thereto.

H. B. 310. An Act to create the office of stenographer or clerk to the county judge in all counties containing a part of a city of the third class, etc.

H. B. 53. An Act to amend and re-enact Sec. 4399-22, Kentucky Statutes, 1939 Supplement, being Chapter 4, page 134 of the Acts of the General Assembly, relating to the qualifications of members of boards of education.

H. B. 170. An Act to amend Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938, entitled "An Act to provide approved high school service for all pupils."

H. B. 215. An Act authorizing independent school districts to annex county subdistrict or parts thereof.

H. B. 82. An Act to create and fix the salary of a third assistant Commonwealth's Attorney in counties having a population of two hundred thousand or over; etc.

With a Committee Amendment thereto.

H. B. 132. An Act relating to the holding of sessions of court in the 26th Circuit Court District in Kentucky.

H. B. 182. An Act to repeal, amend and re-enact Sec. 3896, Carroll's Kentucky Statutes, 1936 Edition.

S. B. 28. An Act to change the time of holding the terms of Circuit Court in the 37th Judicial District.

S. B. 48. An Act to amend and re-enact Sec. 3290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, providing for the government of cities of the third class.

Ordered that said bills and resolutions be read the second time.

The Constitutional provision as to the second reading of said bills and resolutions at length being dispensed with,

said bills and resolutions were read the second time by their titles only.

Ordered that said bills and resolutions be placed in the Orders of the Day.

Mr. Hunnicutt moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Hunnicutt moved that the House do now recess until one-thirty o'clock P.M.

Said motion was agreed to.

And then the House recessed.

The hour of one-thirty o'clock P.M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon the following bills and resolutions were introduced, viz.:

By Mr. Savage.

H. Res. 55. RESOLUTION to pay Mrs. Lillian P. Wells the per diem allowance of her deceased husband, the late Adolph Wells.

Said resolution is as follows, viz.:

WHEREAS, the late Adolph Wells was elected to the House of Representatives of this General Assembly at the

general election in November, 1939, from the 56th legislative district, being in Jefferson County, and

WHEREAS, the said Adolph Wells was elected for a term of two years and while on his way to Frankfort, Kentucky to take the oath of office died suddenly on January 1, 1940, and

WHEREAS, the said Adolph Wells had gone through a long, heated primary election as well as a very hard fought general election, and

WHEREAS, if he had been permitted to take the oath of office and serve during this term of the General Assembly he would have received as per diem or salary the sum of $720.00 as a member of the General Assembly, and

WHEREAS, it has heretofore been the custom and precedent set by the General Assembly to allow the widow or the dependants of the deceased member of the General Assembly his per diem or salary that he would have received had he attended the session, and

WHEREAS, the deceased spent considerable time and money in his campaign for nomination and election as aforesaid, and

WHEREAS, his widow, Mrs. Lillian P. Wells, is now obligated for and will be compelled to pay certain debts and obligations created by the said Adolph Wells, much of which was created while and due to his making the race for member of the General Assembly as aforesaid, and

WHEREAS, the said widow, Mrs. Lillian P. Wells, needs an allowance for her support and maintenance.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is hereby appropriated out of the legislative session fund the sum of $720.00 to be paid to Mrs. Lillian P. Wells, widow of Adolph Wells, and the Commissioner of

Finance is hereby directed to draw his warrant upon the Treasurer in favor of the said Mrs. Lillian P. Wells for the sum of Seven hundred and twenty ($720.00) dollars.

By Mr. Bosworth.

H. Res. 56. A Resolution urging the members of the Congress of the United States of America to support Senate Bill No. 1518 and H. R. Bill No. 7152 of the 76th Congress, which provide for the establishment of the Cumberland Gap National Historical Park and the Cumberland National Recreational Area in Kentucky, Virginia and Tennessee.

Said resolution is as follows, viz.:

WHEREAS, bills have been introduced into the Senate and House of Representatives of the Congress of the United States of America, providing for the establishment of the Cumberland Gap National Historical Park and the Cumberland National Recreational Area in Kentucky, Tennessee and Virginia, and

WHEREAS, this Proposed Park includes within its boundaries Cumberland Gap, the most famous mountain pass in America, which has had tremendous influence and effect upon the settlement of the West and the Great Northwest and which has been used for the past three hundred years as a passageway from the North to the South, first as the old Warrior's Path established centuries ago by the Indians and used as a passageway from the Great Lakes area and leading into the Southland and later as the Wilderness Trail for the white settlers of the West and the Northwest, and

WHEREAS, the Indians were followed later by Daniel Boone and other pioneers who came in from the South and East through Cumberland Gap on trips of exploration and settlement into what was developed the States of Kentucky, Ohio, Indiana and Illinois, Missouri, Kansas, Arkansas, and other regions of the West and Great Northwest, and

WHEREAS, during the War Between the States, Cumberland Gap and the mountains surrounding it formed a most strategic and important location for fortifications, and were the scenes of many military conflicts, being held in turn by the Federal and Confederate forces, and

WHEREAS, the first all paved highway from the Great Lakes to Southern Florida passed through Cumberland Gap, so that the Gap with the roads and trails leading thereto has played a most important part in the development of travel and transportation in the United States, and

WHEREAS, there are numerous points of great scenic and historic interest in and surrounding the Gap which should be preserved such as Salt Peter Cave from which salt peter was taken during the War of 1812 and the Civil War for the use of manufacture of gun powder; Soldiers Cave which was used for storage of implements of war and as a hiding place for soldiers during these conflicts, and about which a book entitled "Cudjo's Cave" was written by James T. Trowbridge, which enjoyed wide circulation; the Pinnacle which served as a landmark to the surveyors in the early 1700's, and which was used as a vantage point for the location of one of the largest guns in the Civil War, and on the sides of which were many fortifications, trenches and forts in use at that time; Sand Cave in which is to be found countless varieties and colors of sand; Devil's Garden with its many unusual and unique rock formations; the Doublings; White Rock; Moore's Knob; Rocky Face; Fern Lake; historic Cumberland Ford over which the Wilderness Road passed, and many other interesting points that should be preserved for posterity, and

WHEREAS, this is the most important spot in America of such great historic significance around which there is so much available forest land that can be purchased at this time for the development of this much needed Park, and

WHEREAS, this Park which is easily accessible to the

centers of population of the United States would draw to its boundaries a tremendous number of people, bringing into the three states affected a large and increased revenue, and would add to the many attractions already established in state and national parks in the three states affected,

THEREFORE, *be it Resolved* that we the House of Representatives and the Senate of the Kentucky Assembly in regular Session do hereby petition the following Senators and Representatives of the states of Kentucky, Tennessee and Virginia in our National Congress: Senators Alben W. Barkley, Harry Flood Byrd, A. B. Chandler, Carter Glass, Kenneth McKellar and Tom Stewart, and Congressmen Joe B. Bates, Schuyler Otis Bland, Thomas G. Burch, Joseph W. Byrns, Jr., Virgil Chapman, Jere Cooper, Wirt Courtney, Edward W. Creal, Colgate W. Darden, Patrick H. Drewry, John W. Flannagan, Jr., Albert Gore, Nobel J. Gregory, John Jennings, Jr., Estes Kefauver, Andrew J. May, Emmett O'Neal, Herron Pearson, B. Carroll Reece, A. Willis Robertson, John M. Robsion, Dave E. Satterfield, Jr., Howard W. Smith, Brent Spence, Beverly M. Vincent, Clifton A. Woodrum to do everything in their power to bring to passage at as early a date as possible the above mentioned bills.

Be it further Resolved that the Clerk of the House of Representatives be directed to mail copies of this Resolution to each Senator and Congressman of the United States, soliciting their active support of this praiseworthy effort to add to the National Park System of the nation this unique, important and outstanding historic and scenic area which has meant so much in the development of America.

By Mr. Daugherty.

H. Res. No. 57. Resolution authorizing W. F. Masden, R. E. Cox, and Earl Dacon to sue the Commonwealth of

Kentucky and Fish and Game Commission of the Commonwealth or either.

Said resolution is as follows, viz.:

WHEREAS, the estate of Isaac Bernheim has purchased about 15,000 acres of mountainous land located, partly in Bullitt County and partly in Nelson County, in this Commonwealth and said land is held by said estate for the Commonwealth of Kentucky and is known as the Bernheim Foundation for the rearing and protection of wild animals and wild turkeys of all kinds, and whereas the Commonwealth of Kentucky has, through its Fish and Game Commission, placed on said land large numbers of deer and the same have been prolific and increased to a very large number, and are not confined on the above said land, but are permitted to run in large droves over land adjoining and surrounding this said 15,000 acres and destroy the crops of the farmers in the surrounding country, and said deer are by sections 1938a-16 and 1938a-17 and amendments thereto of Carroll's Kentucky Statutes, Baldwin's Revision, protected from being killed or chased by dogs.

WHEREAS, W. F. Masden, R. E. Cox and Earl Dacon are farmers in the surrounding territory of the above said 15,000 acres of land and were such farmers during the years 1935, 1936, 1937, 1938, and 1939, and during the above said years the deer as above said have gone upon the land cultivated by W. F. Masden and destroyed his crops and damaged him in the sum of $1,387.25 (one thousand three hundred eighty-seven dollars and twenty-five cents), and have gone upon the land cultivated by R. E. Cox during the years of 1938 and 1939 and destroyed his crops and damaged him in the sum of $1,089.25 (one thousand eighty-nine dollars and twenty-five cents), and have gone upon the land cultivated by Earl Dacon in the years of 1938 and 1939 and destroyed his crops and damaged him in the sum of $500 (five hundred dollars).

NOW, in order that W. F. Masden, R. E. Cox and Earl Dacon and each of them may have their "day in court" to determine by judicial action the extent of damages, if any, sustained by them, and the liability therefor.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That W. F. Masden, R. E. Cox and Earl Dacon and each of them, in their own right and name, be and they are respectively hereby empowered and authorized to file and prosecute appropriate actions severally and respectively, against the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for such damages sustained, if any there be; and in the event any judgment in either action is recovered by said W. F. Masden, R. E. Cox or Earl Dacon or either of them, or same are compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in other suits and the case may be settled and adjusted with and by the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

§ 3. Said action may be brought in Bullitt County, the county where the damage was done, in the Circuit Court of said county. The limit of liability to W. F. Masden is $1,387.25 (one thousand three hundred eighty-seven dollars and twenty-five cents), and as to R. E. Cox the limit of liability is $1,089.25 (one thousand eighty-nine dollars and tweny-five cents), and as to Earl Dacon the limit of liability is $500 (five hundred dollars).

By Mr. Mollette.

H. Res. 58. A Joint Resolution authorizing Nancy E. Cooper to sue the Commonwealth of Kentucky and the Department of Highways of Kentucky, or either.

Said resolution is as follows, viz.:

WHEREAS, on May 27, 1939, the said Nancy E. Cooper, was walking across Paintsville Street, which is a part of State Route Number 40, within the corporate limits of the town of Salyersville, Kentucky, about the hour of 7 A. M. and was exercising due care for her safety, when she was struck by a truck owned and operated by the Department of Highways of the Commonwealth of Kentucky, and

WHEREAS, at the time of the said accident, the said truck was the property of the Department of Highways of the Commonwealth of Kentucky, and was being operated on its business and was under the supervision and control of Jennings Reed, the agent, servant and employee of the said Department of Highways of the Commonwealth of Kentucky, in a negligent and careless manner, without having due regard for the safety of pedestrians walking along said highways, and

WHEREAS the negligence of the Department of Highways and its agent, servant and employee, in failing to exercise ordinary care in the operation of said truck was the direct and proximate cause of the injuries and damage suffered by the said Nancy E. Cooper.

WHEREAS, on account of said accident said Nancy E. Cooper suffered a fracture of her collar bone, her shoulder blade, her hip and numerous other painful injuries and bruises, and will remain an invalid for the balance of her life, and

WHEREAS, on account of the aforesaid injuries it was necessary for the said Nancy E. Cooper to receive and

have hospital care, medical attention and surgical supplies, and

WHEREAS, she has suffered great mental and physical pain and suffering and permanent injuries, for none of which she has received any compensation whatsoever.

NOW, THEREFORE, in order that the rights of the parties may be determined by judicial action and the question of negligence of the Department of Highways of the Commonwealth of Kentucky, its agent, servant and employee, if any, causing said injuries and damage and expenses to the said Nancy E. Cooper may be determined by judicial action.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Nancy E. Cooper, residing in Magoffin County, Kentucky, be, and she is hereby, authorized, empowered and permitted, to file an action or actions against the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky for the purpose of determining the liability of them as she may have suffered or incurred, arising from the facts hereinbefore set forth, and in the event any judgment is recovered by the said Nancy E. Cooper, or in the event that the judgment, judgments, action or actions, as the case may be, are compromised and settled, the amounts authorized by the judgment or judgments, or compromise in settlement, if any there be, shall be approved by the Department of Finance and paid out of the general fund by the check of the State Treasurer upon a warrant or warrants duly drawn by the Auditor of Public Accounts.

§ 2. Said action or actions may be brought either in the Circuit Court of Franklin County, Kentucky, or Magoffin County, Kentucky.

§ 3. Either party to said action or actions may appeal

from any judgment or judgments which may be entered therein, as in any other civil suit, and the action or actions, or any compromise or settlement thereof, shall have the consent and approval of the Attorney General of Kentucky, as in any other civil action against the Commonwealth of Kentucky, or any agency, thereof.

By Mr. White.

H. Res. No. 59. A Resolution authorizing the trustees of the South Union Baptist Church to sue the Commonwealth of Kentucky and the State Highway Department, or either.

Said resolution is as follows, viz.:

WHEREAS, the property of the South Union Baptist Church, Edmonson County, Kentucky, has been greatly damaged by a cut made in front of the church and cemetery by employees of the Department of Highways, and

WHEREAS, said cut has caused an erosion of the soil which threatens to reach graves in the cemetery and to undermine the pillars of the church, and will cause further damage in the future: NOW, THEREFORE, in order to determine by judicial action the extent of the damages caused to the property of the South Union Baptist Church by the Department of Highways:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. The trustees of the South Union Baptist Church, Edmonson County, Kentucky, are authorized to institute a suit against the Commonwealth of Kentucky, and the Department of Highways, or either, to recover for damages to its real estate caused by a cut made by employes of the Department of Highways.

§ 2. Said action may be brought in any circuit court of the state having jurisdiction of the parties and subject matter.

§ 3. If any judgment is recovered by the South Union Baptist Church or if the claim is settled or compromised, the Department of Finance shall draw a warrant upon the State Treasurer for the amount due which shall be paid out of the Guneral Fund.

By Mr. Florence.

H. Res. 62. A Resolution for the benefit of Ruth A. King, of Cynthiana, Kentucky.

Said resolution is as follows, viz.:

WHEREAS, Ruth A. King of Cynthiana, Harrison County, Kentucky, was employed by the Department of Welfare of the Commonwealth of Kentucky during the month of September, 1937, at a stipulated salary of $125.00 per month as payment for her services as field worker for the Old Age Pension Division of said Department, and

WHEREAS, she performed her duties for that entire month in an efficient and proper manner, as is evidenced by her reports for said month, now on file in said Department, and

WHEREAS, said Ruth A. King received for her services only $76.64 for her work in the capacity of field worker for said month of September, leaving a balance of $48.36 still due, and

WHEREAS, Ruth A. King may not now claim and receive payment for her said services because the fiscal year in which her services were rendered has expired; NOW, THEREFORE,

Be it resolved by the House of Representatives, the Senate concurring:

That the Commissioner of Finance is hereby directed and empowered to draw his warrant in favor of said Ruth A. King in the sum of $48.36 for her services rendered as set

out above, and the Treasurer is authorized and empowered to issue a check to said Ruth A. King in said amount upon his receipt of the Commissioner of Finance's warrant on the general expenditure fund.

By Mr. Fallis.

H. Res. 64. A Resolution for the benefit of Z. L. Allen, C. C. Yancey, Ruby Riddle, Sam Penn, Frank Mulverhill, Ben Hackney, Kelly Barker, Sidney Carter, Ray Bodkin, Lester Moore, Albert Morrow, J. J. Huffines, Buford Davis, State employees engaged to keep the State Capitol clean and perform other services for the benefit of the members of the General Assembly, for which services no adequate compensation has been provided, and declaring an emergency, whereas the above-named employees have had their work and individual duties materially increased during the present session of the General Assembly of the Commonwealth of Kentucky, and whereas they have worked over time to keep the State Capitol clean for the benefit of the members of the General Assembly during said session, and whereas no adequate compensation has been provided to pay the above-mentioned persons for their faithful service in performing the extraordinary duties during this session.

Said resolution is as follows, viz.:

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That Z. L. Allen, C. C. Yancey, Ruby Riddle, Sam Penn, Frank Mulverhill, Ben Hackney, Kelly Barker, Sidney Carter, Ray Bodkin, Lester Moore, Albert Morrow, J. J. Huffnes, Buford Davis, and each of them be allowed the sum of $3.00 per day for each day of the present session of the General Assembly which allowance shall be in addition to their present salaries.

The Chief Clerk of the Senate upon the passage and approval of this resolution shall requisition and the Com-

missioner of Finance shall approve the payment of this fund, and he shall draw a warrant on the State Treasury to be charged against the Legislative fund for the above compensation for each of the persons enumerated herein in favor of such state employees for their extraordinary services rendered during the present session of the General Assembly.

Whereas the General Assembly will within a short time adjourn and the aforesaid employees are in need of this money applied for in this resolution, and whereas it is the desire of the General Assembly that they be paid immediately upon the passage of this resolution and its approval by the Governor, and whereas the said employees have performed well the extraordinary services required of them during the session of the General Assembly and have received no compensation, an emergency is declared to exist and the abovementioned people shall be paid immediately upon the passage of this resolution and its approval by the Governor.

By Mr. Rayburn.

H. Res. 65. A Resolution authorizing Mrs. Elizabeth McDonald, personal representative of George McDonald, deceased, to file and prosecute suit against the Commonwealth of Kentucky and the State Highway Commission, or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about the 8th day of December, 1936, George McDonald, a resident of Garrison, Lewis county, Kentucky, received injuries when in a collision of two motor vehicles on a state highway (No. 10), near Quincy, Kentucky, from which injuries he then and there died; and

WHEREAS, it is claimed that said accident resulting in said injuries and death was caused by embankments of dirt and stone which had been thrown up on both sides of the high-

way and which had frozen, it being contended that said embankments of dirt and stone restricted the usual known usable width of said highway to such an extent as to leave insufficient room for passage of the vehicles herein mentioned, thereby causing said accident; and it being further contended that the condition of the highway was caused and created by the throwing up of these embankments of dirt and stone on the sides of the highway and in the bed of the highway and allowing them to remain there and freeze, by the agents and employees of the Department of Highways and/or the Commonwealth of Kentucky, and since there were no warning signs or other indications of the defective condition of the highway, which it is contended the Commonwealth of Kentucky and/or the Department of Highways, by and through its agents and employees knew, or in the exercise of ordinary care should have known, of the existence of the said defective condition of the highway, which is contended to be the proximate cause of the death of George McDonald; therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Elizabeth McDonald, of Garrison, Lewis County, Kentucky, personal representative of George McDonald, deceased, be, and she hereby is, authorized, empowered and permitted to file a suit or suits against the Commonwealth of Kentucky and/or Department of Highways of Kentucky, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and/or Department of Highways of Kentucky, or either, for such injuries, death and damages, if any there be, arising from the above stated facts; and in the event any judgment is recovered by said Elizabeth McDonald, or said judgments or suits are compromised and settled, the judgments or amounts agreed on in compromise, if any, shall be paid by the Director of Finance by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Said action or actions may be brought in any county having jurisdiction of the parties and subject matter.

§ 3. Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky, in the same way as any other civil case.

By Mr. Tyra.

H. Res. 66. Resolution authorizing S. F. Kalor to sue the Commonwealth of Kentucky and the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, on the 11th day of January, 1940, on the State Highway between Stanton and Cave City, in a wreck of a truck owned by S. F. Kalor alleged to have been caused by the negligence of the State highway maintenance crew, and

WHEREAS, serious damage was done to said truck by reason of the alleged carelessness and negligence of the said employees of the State Highway Commission in the conduct of the business in the State of Kentucky.

NOW, in order that S. F. Kalor may have his "Day in Court" to determine by judicial action the question of negligence, if any, of the employees of the State Highway Commission of the State of Kentucky, causing said damage, aforesaid,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That S. F. Kalor, in his own right name, be and he is hereby empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky, and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of

Kentucky and the State Highway Commission, or either, for damages, if any there be; and in the event of any judgment in such action is recovered by said S. F. Kalor or same is compromised or settled, same shall be paid by the Auditor of Public Accounts, by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

§ 3. Said action may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be $500.00.

By Mr. Freeman.

H. B. 336. An Act relating to the liability of common carriers by railroad for injury or death of employees.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the Statutes is created to be numbered section 820b-4 and to read as follows:

In any action brought against any common carrier by railroad under or by virtue of any of the provisions of section 820b-1 to recover damages for injuries to, or the death of, any employe, the employe shall not be held to have been guilty of contributory negligence or to have assumed the risk of his employment if the injury or death occurred while the employe was obeying an order of his employer or foreman even though the employe knew or should have known that the performance of the work directed by the order was dangerous, or that he might sustain injuries by reason thereof.

By Mr. Ward.

H. B. 337. An Act to repeal and re-enact sections 1 to 19, both inclusive, of an Act entitled "An Act for the Government of cities of the second class in the Commonwealth of Kentucky" which was amended March 5th, 1906, being Chapter 15 of the Acts of 1906 of the General Assembly of Kentucky, by authorizing the acquisition, maintenance and operation of public parks in cities of the second class, by providing for the appointment of two park boards in such cities, one to hold, manage and control the public parks acquired, established and maintained for the recreation, pleasure and welfare of the white population, and the other to hold, manage and control the public parks acquired, established and maintained for the recreation, pleasure and welfare of the colored population, and prescribing the manner of appointment, term of office, and the powers and duties of the members of each of said boards.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That sections 1 to 19, both inclusive, of an Act entitled, "An Act for the government of cities of the second class in the Commonwealth of Kentucky," which was amended on March 5, 1906, being all of Chapter 15 of the Acts of 1906 of the General Assembly or Kentucky, be and the same are hereby repealed, and said sections 1 to 19, both inclusive, Chapter 15 of the Acts of 1906 are hereby re-enacted so that said sections as re-enacted shall read as follows:

(1) *Boards of Commissioners for.* All public parks which have been or may hereafter be established and maintained for the recreation, pleasure and welfare of the white population in cities of the second class shall be held, managed and controlled by a board under the name and style of the "Board of Park Commissioners (White)" of the city

wherein such parks may be located, and all public parks which have been or may hereafter be established and maintained for the recreation, pleasure and welfare of the colored population in cities of the second class shall be held, managed and controlled by a board under the name and style of "Board of Park Commissioners (Colored)," of the city wherein such parks may be located. Each board of park commissioners shall continue and is hereby declared a body politic and corporate under the name as herein provided, with perpetual succession; and each by its name may contract and be contracted with, sue and be sued, have and use a corporate seal, and alter or renew the same at pleasure.

(2) *Appointment and term of boards.* Each board of park commissioners shall consist of five members who shall be appointed by the mayor of the city in which it is established and the term of office shall be for five years or until their successors are appointed and qualified, and when a vacancy occurs, the person appointed to fill such vacancy shall hold office until the expiration of the term of the person whose vacancy he filled or until his successor is appointed and qualified.

(3) *Oath of office.* The persons so appointed as members of said boards of park commissioners shall each, within ten days after appointment, appear before the city clerk of his city and make and subscribe to an oath that he will faithfully, diligently and to the best of his ability perform all the duties of such park commissioner without favor or prejudice; that he is not subject to any of the prohibitions or disqualifications set out in this act; that he will not in any manner, directly or indirectly, be concerned in any contract, purchase, sale, salary, or emolument of any kind connected with or growing out of any business of said boards of park commissioners, or the providing, purchasing, condemning, managing or improving of any park property; or in supplying any labor or material, save as by the terms of this act. Said oath shall

be filed in the office of the city clerk and shall be a public record.

(4) *Bond of members of boards.* Each person appointed as park commissioner as aforesaid shall likewise, within ten days after such appointment, execute bond in the sum of five thousand dollars ($5,000) payable to the city which he serves as park commissioner, with good security, to be approved by the mayor, coditioned that he will faithfully perform all of the duties of a park commissioner of said city as prescribed by law which said bond shall, when approved by the mayor, be filed in the office of the city clerk and be of public record. The expenses of executing such bond when made by a guarantee company shall be paid out of the funds available for park purposes as are the other expenses of the board.

For any violation by the principal in such bond of any duty as park commissioner, or any participation by him, directly or indirectly, in any contract or sub-contract in respect to park property on the improvement thereof, or the furnishing of supplies of any kind therefor, suit may be maintained upon such bond against the principal and sureties; such suit to be in the name of the city and brought by the city solicitor or attorney, or by any citizen, and any recovery shall inure to the benefit of the fund for park purposes.

(5) *Officers of boards; reports to mayor.* The commissioners who shall be appointed and who shall qualify as aforesaid shall, as soon as convenient thereafter, meet and choose one of their number to be president of their board, to serve for the term of one year, and annually thereafter a president shall in like manner be chosen. The duties of the president shall be the usual duties incumbent upon such an office and such as the board may prescribe. Each of said boards of park commissioners shall also elect a secretary, who may or may not be of their own number, whose duties shall be, in addition

to keeping accurate and exact minutes of all meetings of the board, to keep a set of books showing with accuracy the receipts and expenditures of the board and shall preserve on file duplicate vouchers for all expenditures, which books and vouchers shall at all times be subject to the examination of the mayor, or any committee of the general council authorized to make such examination either by themselves or through expert accountant duly chosen; and shall annually, in the month of January, transmit to the mayor and general council a full and detailed report and statement of all the acts and doings of the board for the preceding year, together with a complete and itemized account of all receipts and disbursements of money, with an itemized estimate of the money needed for park purposes. Said report and statement shall be published in the official newspaper of the city in which said board is established.

(6) *Secretary of boards; salary.* Each board of park commissioners may allow out of the funds appropriated for park purposes such salary to the secretary of the board as may be commensurate with the work done by him not to exceed five hundred dollars ($500.00) per annum. The members of the boards of park commissioners shall receive no compensation for their services; nor shall any member of either board hold any other office or appointment or employment under the city, or any department of the city, or any institution thereof. Provided, that either of said boards may elect one of its own number secretary, as provided in this act, and he may receive the compensation provided herein for his services as such secretary.

(7) *Duties and powers of boards; police power over parks.* Each board, as constituted aforesaid, shall have the care, management and custody of the parks and grounds used for park purposes, the boulevards and parkways now belonging to the city, or to any existing board of park commissioners, or in the control of the city, or the existing board, and

all such property as may be required for park purposes or public squares by the city or board, the white park board as herein constituted to have the care, management and custody of all such public parks which are established and maintained for the recreation, pleasure and welfare of the white population, and the colored board as herein constituted to have the care, management and custody of all such public parks which are established and maintained for the recreation, pleasure and welfare of the colored population. Each board shall have power to acquire and hold property for public parks and public squares by condemnation or by contract for same; to accept conveyances thereof; to accept gifts, donations or devises of land or other property for park purposes; to lay out and improve with walks, drives, roads, tree planting and other proper improvements the park or parks, square or squares, and other property held by it or acquired and managed, and to enter into contract for same; to protect all property and improvements to it, belonging to or under its management or control, from injury or decay; to adopt rules and regulations for the reasonable and proper use for preventing injuries to or misuse of all parks, public squares, boulevards, driveways, walks and park property generally, and to prevent disorder and improper conduct within the precincts of any park or enclosure, or upon any drive, walk or avenue under the control of said board of park commissioners. The police power of the city shall extend over the said park property of every kind, as the same is or shall be acquired; and all violations of such park rules and regulations, and all other misdemeanors or offenses committed within any park property or precinct, shall be punished by the police court of the city on complaint and proceeding had, as provided by law, in cases of misdemeanors and violations of city ordinances. The said commissioners and their agents and employees shall have power to make arrests for felonies or misdemeanors committed within any park precinct, or for violation of any park rules or regulations.

(8) *Land may be acquired.* In locating parks and such other property as may be acquired under this act, the boards shall have regard to the needs of the different portions of the city and population thereof, and the suitability of grounds for park purposes, as well as the cost thereof. In and of all such matters said board shall have discretion, as also in the system of improvements of the same. The said boards may acquire by purchase, gift or condemnation land for parkways connecting the parks and may improve and regulate the use of the same.

(9) *Title of land acquired.* The boards shall not be compelled to accept any gift or offer of land which in its judgment is unsuited for park purposes, or the improvement of which would entail an injudicious outlay. The title to all property acquired under the provisions of this act or that may now be owned and used for park purposes by any city of the second class, shall, from and after the passage of this act, vest in the boards of park commissioners, and the same with all the improvements and equipment shall be held in strict and inviolable trust for public park use, free from all taxation, impost or assessment, state, county, district, municipal or otherwise.

(10) *Care of trees.* Said boards of park commissioners shall have the control and management of the planting and care of all shade trees along the sidewalks and thoroughfares of such city, and are hereby given the power to adopt such rules and regulations as may be necessary for the protection and care of same and for the enforcement of said rules and regulations.

(11) *Condemnation of land.* Whenever in the opinion of either board, property shall be needed for any of the purposes herein contemplated, either within or beyond the boundaries of the city and within the county in which such city is situated, such board may, by resolution reciting such need, order the condemnation of such property, and proceed-

ings for such condemnation shall be had in the name of said board of park commissioners in accordance with the provisions of section 3095, of the act for the government of cities of the second class. If any member of the board be the owner or interested in any property necessary, in the opinion of the majority of the other members of the board, to be taken for park purposes, then proceeding to acquire such property shall be by condemnation, and such facts of ownership or interest of such member, and the opinion of the majority of his colleagues and the necessity for condemnation shall be fully set forth in the petition.

(12) *Tax to support.* For the purpose of providing necessary funds for the purchase, care and improvement of all park property, and to meet the expenses of the boards, the general council of the city in which such boards of park commissioners has been established in accordance with the provisions of this act shall, in each year, levy and cause to be collected, a tax of not exceeding five cents (5c) upon each one hundred dollars ($100.00) of value of all the property within the city taxable for municipal purposes.

(13) *Funds; how paid out.* Two funds of equal amount shall be set aside from the aforesaid levy, and each shall be held by the treasurer of the city in separate and distinct accounts, each to be designated as a park fund, one for use by the white park board and the other for use by the colored park board, and said funds shall be paid out by the treasurer only upon an order issued by said boards of park commissioners, signed by the secretary and countersigned by the president of the respective board, by which such withdrawal of funds is made, and after a bill for same has been approved by such board at session assembled; but in no case shall the treasurer honor in any one year orders for a greater sum than the amount appropriated and levied for that year for park purposes.

(14) *Election to decide if bonds shall be issued.* For

the purpose of raising money for the purchase or improvement of lands for park property, the general council of the city, upon the request of either board of park commissioners shall, by ordinance, submit to the qualified voters of the city the question as to whether the city shall issue bonds with interest coupons attached to the amount and of the character set forth in said ordinance; and when such ordinance is passed it shall, at the next November election, be submitted to the qualified voters of the city; and, if it receives the assent of two-thirds of those voting, the bonds so issued shall be issued by the city and sold by the mayor, the proceeds of said sale to be placed in the hands of the treasurer of the city to be held by him to the credit of the park fund and paid out upon the order of the board of park commissioners which requested the passage of the aforesaid ordinance. Said bonds shall not bear interest at a rate exceeding six per cent (6%) per annum, payable semi-annually, and shall not be sold for less than par and accrued interest.

(15) *Boards may borrow money.* Either board of park commissioners shall have the power to borrow money on the credit of the board, in anticipation of its part of the revenue from the city for the year in which the same is borrowed, and to pledge said revenue for the payment of the principal and interest of said loan: Provided, that the interest paid shall in no case exceed six per cent (6%) per annum, and the principal shall in no case exceed fifty per cent (50%) of the anticipated revenue. Neither board shall not to any extent or under any device, in one year, anticipate or create a charge upon the income of the future years; and no work done or improvements made in any one year shall be made a charge upon the income of any future year.

(16) *Park policemen.* The general council of the city may from time to time, upon application therefor made by either board, provide by ordinance for a special park police, the same to be under the control of the board of park com-

missioners by whom such application is made and to be paid by it.

(17) *"Park"; what included in.* The term park property used in this act includes all parks, squares and areas of land within the management of the board; and all buildings, structures, improvements, seats, benches, fountains, walks, drives, roads, trees, plants, herbage, flowers and other things thereon and enclosures of the same; and all shade trees on streets or thoroughfares, resting places, watering stations, playgrounds necessary and incidental to such public parks and property, parade grounds, or the like; and all connecting parkways and roads or drives between parks; and all avenues, roads, ways, drives, walks, with all trees, shrubbery, vines, flowers and ornaments of any description; and all birds, animals or curiosities or objects of interest or instruction placed in or on any such enclosures, ways, parkways, roads or places, and said terms shall be liberally construed.

(18) *Officers of city to assist; labor and material obtained.* In carrying out the provisions of this act either board of park commissioners may command the services of the city engineer and the superintendent of public works and may employ such labor and purchase such material as may be necessary. All legal services or advice required by said boards shall be rendered by the city solicitor and city attorney and their assistants without additional compensation.

By Mr. White.

H. B. 338. An Act to amend section 2276 of Carroll's Kentucky Statutes, 1936 edition, providing for payment of jurors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2276 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

2276. *Pay of jurors in circuit courts; jurors called but sworn.* (1) Jurors in circuit courts shall be paid three dollars for each day of service.

(2) All persons whose names are drawn from the drum or wheel case, and all persons summoned under a special venire except bystanders, for jury service in a circuit court and who appear in person in court at the opening thereof in response to the summons, and who reside outside the corporate limits, of the city in which the court sits, and who do not claim exemption or ask to be relieved from jury service, shall receive three dollars per day for each day served, even though the person is not sworn or accepted for jury service.

By same.

H. B. 339. An Act relating to crimes and punishment, and imposing a penalty for disorderly conduct.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the Kentucky Statutes is created to read and be numbered as follows:

1268a. *Disorderly conduct.* Any person guilty of disorderly conduct not amounting to a breach of the peace, riot, rout, unlawful assembly or affray shall be fined not more than fifteen dollars for each offense.

By Mr. J. Lee Moore.

H. B. 340. AN ACT to prevent the spread of syphilis through marriage and to provide for an antenuptial physical examination to determine the presence of syphilis and to

provide a penalty for the violation of the provisions of this Act;

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 2105a-1, 2105a-2, 2105a-3 and 2105a-4 are hereby repealed and amended and re-enacted so that said sections as amended and re-enacted shall read as follows:

Section 2105a-1a. Every person making application for license to marry shall, at any time within fifteen days prior to such application, be examined by a physician authorized to practice medicine in Kentucky as to the existence or non-existence in such person of any stage of syphilis infection which is or is likely to become communicable, and it shall be unlawful for the county clerk of any county to issue a license to marry to any person who shall have failed to present and file with such county clerk either a medical certificate indicating that such examination has been made, or an order from a court of proper jurisdiction directing that said clerk issue the marriage license.

Section 2105a-1b. In order to obtain a medical certificate, as required in this Act, each such medical examination shall include a complete history, and such physical examination as will reveal any existing clinical evidence of a syphilis infection, and laboratory test or tests. All laboratory tests required by this Act shall be made by a laboratory which is approved by the State Commissioner of Health of Kentucky, or by the laboratory of the State Department of Health. Such laboratory test, or tests as may be made by the State Department of Health shall be made free of charge. Laboratory tests shall include a Kahn diagnostic test for syphilis, or some other serological test for syphilis approved by the State Commissioner of Health of Kentucky, and/or a Darkfield test for syphilis when moist lesions are present.

The medical certificate referred to in this Act shall be made on a form prescribed by the State Commissioner of Health of Kentucky.

Section 2105a-1c. If, on the basis of laboratory test, or tests, and clinical examination, the examining physician finds no evidence of any syphilis infection, he shall issue a medical certificate to that effect to the applicant. If, on the basis of laboratory test or tests and/or clinical examination, the examining physician finds evidence of a syphilis infection, a medical certificate shall be withheld until such time as the applicant has undergone such additional clinical examination and laboratory test or tests, by the same or another physician authorized to practice medicine in Kentucky, to determine the existence or non-existence of a syphilis infection, and if the existence of such infection is determined, the applicant shall immediately become amenable to the rules and regulations adopted and promulgated by the State Board of Health of Kentucky to prevent persons having a syphilis infection in a communicable stage from transferring such infection to other persons and medical certificate shall be issued when and after the requirements of the rules and regulations for the prevention of the spread of syphilis, hereinafter authorized by the State Board of Health of Kentucky have been fully complied with.

Section 2105a-1d. In the event the female applicant for marriage license makes an affidavit to the effect that marriage is necessary for the reason that she is with child and that such marriage will confer legitimacy on the unborn child, the county judge of the county wherein the application is made is hereby authorized and empowered to hear and determine, on medical testimony, the question of pregnancy and, on adjudging that pregnancy exists, shall order the county clerk to issue the marriage license, PROVIDED, that all other requirements of the law regulating the issuance of marriage licenses are complied with, even though the clinical examination and laboratory test, or tests reveal that one or

both marriage applicants have a syphilis infection, and in said order the county judge shall further provide that one or both of the applicants having a syphilis infection shall be treated for the infection as provided by the rules and regulations of the State Board of Health of Kentucky. Where such order is made by a county judge a copy of said order shall be filed with the county clerk in lieu of the medical certificate.

Section 2105a-1e. Every physician, or properly elected health officer, or a physician authorized to practice medicine in Kentucky designated as a representative of a health officer who takes, or causes to be taken from an applicant for marriage license, a specimen for laboratory examination, shall submit such specimen in a manner prescribed by the State Commissioner of Health of Kentucky and shall identify that specimen as "Premarital" when submitting it to an approved laboratory for test, and the laboratory shall provide a report, in triplicate, on a form prepared and furnished by the State Department of Health of Kentucky, of the result of the test on each such specimen submitted. The original of each such report shall be forwarded to the physician submitting the specimen. A duplicate shall be forwarded to the State Department of Health of Kentucky not later than Saturday of the week in which the test was made, and the triplicate shall be retained by the laboratory for its files.

Section 2105a-2a. When an applicant has been refused a marriage license by the county clerk by reason of failure of the applicant to obtain the medical certificate required by this Act, the applicant may elect to file a protest, and take the procedure herein authorized, or to take any other proper procedure, either of a mandatory nature or as otherwise authorized by law. If such applicant elects the procedure authorized in this Act, he may file a protest before the judge of the county wherein the license was denied, and notice of such protest shall there upon be served as a sum-

mons is served, upon the State Commissioner of Health and upon the county health officer, if there be a county health officer in that county. All trials under the procedure authorized in this Act shall be summarialy heard and determined in chambers, and all persons, except necessary officers of the court, and attorneys of record in the matter under consideration, the county health officer or a physician appointed as a representative of the county health officer, and the witnesses, shall be excluded from the hearing, excepting only such other persons as may be authorized to attend the hearing by the applicant. The evidence shall not be transcribed unless authorized by the applicant, and all information, reports, and evidence concerning the persons allegedly having a syphilis infection, and all recommendations, including laboratory reports pertaining thereto, shall be considered privileged communications and shall be inaccessible to the public, and a final order upon any hearing in the matter shall simply state that the applicant may or may not secure the license sought; PROVIDED, that all other requirements of law regulating the issuance of a marriage license are complied with; and PROVIDED further, that there shall be no court costs chargeable for service incident to the carrying out of this Act, but that such service shall be considered a part of the official duty of all officers involved in such proceedings.

The protest may be heard by the county judge twenty (20) days after it is filed, and upon such hearing, the county judge shall, in addition to any other evidence, hear medical testimony by the medical examiner, or examiners, and testimony by the health officer of the county or by a physician authorized to practice medicine in Kentucky designated as a representative of the health officer, and by such representative as the State Commissioner of Health may designate. The medical testimony referred to shall be addressed solely to the determination of whether or not the applicant is suffering from a syphilis infection or infections, in a communicable

stage, or in a stage likely to become communicable; PROVIDED, that no evidence of a laboratory examination shall be admissible unless it shall have been made in a laboratory approved by the State Commissioner of Health for the purpose of making serological tests; and PROVIDED further, that a written report of such an approved laboratory, attested by the physician in charge, identifying the applicant, shall be prima facia evidence of the result of the laboratory test made concerning the applicant.

Section 2105a-2b. Either the State Commissioner of Health, or the applicant may appeal from the action of the county judge within sixty (60) days from the date of the entry of the order of the county judge determining the matter, to the circuit court, and the matter shall be docketed and heard de novo as an equity action, and all rules of equity and laws concerning equity actions shall apply, and the provisions hereinabove mentioned concerning testimony shall apply.

Section 2105a-2c. Any person violating the provisions of this Act concerning the confidential nature of the provisions herein, shall be fined the sum of one thousand ($1,000.00) dollars, which sum shall be paid upon recovery to the applicant, in lieu of damages, and upon failure to pay such fine, the defendant shall serve imprisonment as otherwise provided by law for failure to satisfy a fine.

Section 2105a-3. A marriage license issued in accordance with the provisions of this Act shall be valid for thirty days, including the date it is issued, after which time it shall become valid.

Section 2105a-4. In order that each county judge and the circuit judge may arrive at just decisions under the authority conferred upon him by the Section 2105a-1d, 2105a-2a and 2105a-2b of this Act, the county health officer shall, after hearing the evidence, either himself or by a physician authorized to practice medicine in Kentucky and who

is especially skilled in the diagnosis of pregnancy or in the diagnosis, prevention and treatment of syphilis, advise him in writing as to the existence of pregnancy or of syphilis in a communicable stage, or in a stage likely to become communicable, and such advice shall be considered by the court and made a part of the record.

Section 2105a-5. Any applicant for marriage license, physician, laboratory representative or county clerk who shall violate any of the provisions of this Act, or who shall make any false representations of fact or identity, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten ($10.00) dollars, nor more than one hundred ($100.00) dollars, and imprisoned.

§ 2. This Act shall become effective on January 1, 1941, and shall be in effect thereafter.

§ 3. Since the Sections of the Statutes to which this Act is amendatory cannot be made effective as of March 1, 1940, as now provided by law, because the approval of private laboratories in the Commonwealth cannot be completed by that time, an emergency is declared to exist and this Act shall become effective from and after its passage and the approval by the Governor.

By Mr. Tyra.

H. B. 341. An Act to repeal, amend and re-enact Section 2739j-78, Carroll's Kentucky Statutes, Baldwin's 1938 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 2739j-78, Carroll's Kentucky Statutes, Baldwin's 1938 Revision, be and the same is hereby repealed,

amended and re-enacted so that when amended and re-enacted, said Statute shall read as follows:

Section 1. On or before January 1, 1939 and annually thereafter, and as a condition precedent to the use of the highways of the Commonwealth, every operator of a motor vehicle for hire used primarily for the transportation of property shall pay to the Department of Revenue or its agent at Frankfort, for the privilege of using the highways, an annual excise tax equal to one dollar for each hundred pounds, or fractions thereof, of weight of each motor vehicle operated for hire by him, said weight to be the weight of the motor vehicle at the time of the application for use of the highways of the Commonwealth and when empty and ready for operation. The excise tax imposed by this section shall in each instance be increased fifty (50%) per cent on each motor vehicle for hire not equipped wholly with pneumatic tires. There shall be added to the tax a penalty of twenty (20%) per cent for failure to pay the tax when the same is due, and in addition thereto, a penalty of one (1%) percent for each month, or fraction thereof, the excise tax imposed by this section is in default.

Section 2. There is exempted however from the provisions of the above section, trucks being used in the construction or re-construction of any State Highway within this Commonwealth.

By Mr. Shaikun.

H. B. 342. AN ACT to repeal, amend and re-enact Section 2857, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to special park police for parks, boulevards and parkways of cities of the first class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2857 of Carroll's Kentucky Statutes,

Baldwin's 1936 Revision, be repealed, amended and re-enacted so that same when amended and re-enacted shall read as follows:

Boards of Park Commissioners of cities of the first class are, with the approval of the legislative body of said municipalities, hereby authorized and empowered to elect or appoint a special police force to consist and be composed of such number, rank and grade as the said board shall deem proper. Said Board of Park Commissioners is authorized and empowered to prescribe the term of office of said police force and to establish all necessary rules and regulations for the government and discipline of same, to fix and enforce punishment of the said members of said force for the violation of such rules and regulations as may be promulgated by said Board of Park Commissioners and to dismiss or suspend any or all of said police for such cause as said Board of Park Commissioners may deem sufficient and to elect others to fill the vacancies caused by dismissal or for any other cause.

The members of such special park police force shall qualify by taking an oath before any person authorized to administer oaths to faithfully perform their duties as such officers and may or may not within the discretion of said Board of Park Commissioners be required to give bond and there is hereby conferred upon all of the officers and members of said special park police force the power to make arrests in any parks or park property or upon any parkways or boulevards under the control of the said Board of Park Commissioners of a city of the first class or any place within the county wherein such city is located if the offense or violation for which such arrest is being made was committed upon park property, parkways, boulevards or property under the control of said Board of Park Commissioners, and any and all persons so arrested or taken into custody by members of said special park police shall be tried in courts having jurisdiction over the place where the offense for which such arrest was made was committed.

The Board of Park Commissioners may require the oath herein referred to to be either in written or printed form and subscribed to by the person making same and a full, true and complete record of the time of the appointment and qualifications of each and all members shall be carefully kept and preserved by said Board of Park Commissioners and is hereby declared to be a matter of public record.

The special park police and all members thereof shall at all times be under the control of and paid by such Board of Park Commissioners.

By Mr. Hickey.

H. B. 343. AN ACT relating to revenue and taxation in cities of the third class, amending section 3400 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3400 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

3400. *Taxes due for several years; interest; joint owners; combining bills.* The sums due for taxes for earlier and later years shall be included in the petition and judgment. All taxes shall bear interest at the rate of six per centum (6%) per annum, from the first of October of each year. When all the taxes due by the same owner, or set of joint owners, exclusive of interest, amount to less than twenty dollars ($20.00), the city attorney may combine with other bills or sets of bills, also less than twenty dollars ($20.00), having due regard to the nearness of location, in one action, so that the aggregate of the bills embraced in one suit may amount to fifty dollars ($50.00) or over.

By Mr. Bolling.

H. B. 344. AN ACT to amend section 125M-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, same being Chapter 119, Page 391, of the Acts of the 1930 General Assembly, relating to District Detective to Commonwealth's Attorney.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That sub-section 1 of section 125M, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, and same being Chapter 119, Page 391, of the Acts of 1930, be amended by striking therefrom the words "having therein cities of the second class," so that said sub-section when so amended shall read:

Section 125M-1, detective to be appointed by Commonwealth's Attorney in each County having cities of the second or third class; term; removal.

That in all Counties of this Commonwealth having therein cities of the second or third class there is hereby created the office of District Detective to the Commonwealth's Attorney. Said District Detective shall be appointed by the Commonwealth's Attorney for a term of four years, but may be removed at any time by said Commonwealth's Attorney.

By Mr. King.

H. B. 345. AN ACT repealing and re-enacting Section 1822-13, Carroll's Kentucky Statutes, 1936 Revised Edition, relating to the manufacture and sale of commercial fertilizers in Kentucky, their inspection, analysis and labeling.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The term "Commercial Fertilizer" as used in this Act shall be held to include all materials or mixtures of materials offered for sale as containing plant nutrients, except untreated barnyard manure, marl, ground limestone and wood ashes.

§ 2. Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribution in this State any commercial fertilizer he or they shall apply for registration and file the Director of the Kentucky Agricultural Experiment Station annually or when called for by the Director a certified statement of each and every brand on forms approved or furnished by him printed in the English language clearly and truly certifying:

1. The net weight of the package, bag, carton or bulk;

2. The brand or trade name of the fertilizer;

3. The name and principal address of the manufacturer or person responsible for placing the commodity on the market;

4. The minimum percentages of plant nutrients in such form and manner as may be prescribed by said Director;

5. The names of the ingredients of which the fertilizer is made;

6. The percentage of any substance, if any, which may be injurious to plants.

§ 3. Each bag, parcel or other package containing 50 pounds or more, net weight, shall have attached to it in a conspicuous place a stamp or label on which is printed the guaranteed statement as provided in Section 2 of this Act in terms approved by the Director. Fertilizer delivered in bulk shall be accompanied by a number of such stamps or

labels corresponding to the net weight of fertilizer in the bulk.

§ 4. Net weight of fertilizer in bags or other packages shall be 50, 80, 100, 125 and 200 pounds or other convenient weights to be determined by the Director, except as provided in Section 6 of this Act.

§ 5. The label attached according to Section 2 to any bag or other package or quantity of commercial fertilizer sold, offered or exposed for sale in this State, shall be accepted as the guaranty of the manufacturer, dealer, or agent, that the fertilizer contains the kinds and amounts of plant nutrients printed on the label; and any person fraudulently attaching or permitting to be attached to any package of fertilizer a fraudulent or counterfeit label, a genuine label used a second time, or a label representing such fertilizer to contain a larger percentage of any one or more of the plant nutrients than is actually found by analysis to be contained in the said fertilizer, may be fined as provided in Section 10 of this Act and shall also be liable for reasonable damages sustained by the purchaser of such fertilizer.

§ 6. Each and every manufacturer, importer, jobber, agent or seller of commercial fertilizer shall pay to the Director of said Experiment Station an inspection fee of fifty cents for each ton of such fertilizer sold, offered or exposed for sale in this State at a retail price of fifteen dollars or more a ton and a fee of twenty-five cents a ton for such fertilizer sold or offered for sale at a retail price of less than fifteen dollars a ton except as provided in Section 7. Upon receipt of this fee, it shall be the duty of said Director to furnish the manufacturer, jobber, agent or dealer or importer of commercial fertilizer with stamps or labels in lots to the value of ten dollars or any multiple thereof to be attached to each package of commercial fertilizer sold or used in this State. Such stamps or labels shall be printed

in such form and manner as may be prescribed by the Director of said Experiment Station.

§ 7. When commercial fertilizers are sold or offered for sale in liquid or dry form in packages or containers of less than 50 pounds net weight or in packages or containers in less than 50 pounds in multiple form, special stamps or labels in lots to the value of five dollars or some multiple thereof shall be issued to be placed on the shipping case or cartons as follows: if the sum of the net weights of the individual packages is not over 10 pounds, a one-cent stamp or label; if the sum of the net weights is not over 25 pounds, a one and one-half cent stamp or label; if the sum of the net weights is not over 50 pounds, a two-cent stamp or label. Such stamps or labels shall be printed in such form and manner as may be prescribed by the Director of said Kentucky Agricultural Experiment Station.

§ 8. The Director shall pay all such fees or money received by him into the Treasury of the University of Kentucky, the said money to be used in meeting all necessary expenses in carrying out the provisions of this Act, including the employment of assistants, inspectors, chemists, analysts, expenses in securing samples, practical and scientific experiments in the value and proper use of commercial fertilizers that will inure to the benefit of the farmers, investigations, printing bulletins and other legitimate expenses of the Kentucky Agricultural Experiment Station as may be of practical use to the farmers of the State.

§ 9. The Director is hereby authorized in person or by deputy, to take samples for analysis from any lot, parcel or package of any commercial fertilizer and to have free access during regular business hours to all places of business, mills, buildings, carriages, cars and parcels of whatever kind used in the manufacture, transportation, importation, sale or storage of any commercial fertilizer, and shall have the power and authority to inspect, open and take samples of

fertilizer therefrom for analysis and examine the books and records of fertilizers received and sold. The sampling and analysis of fertilizer herein provided for shall be done by the official methods adopted by the Association of Official Agricultural Chemists.

§ 10. Any manufacturer, dealer, seller, agent, clerk or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any duly authorized inspector or other person in the performance of his duty in making inspection and collecting samples or otherwise on duty in connection with this Act, shall be guilty of violating this Act and shall upon conviction be fined not less than $50.00.

§ 11. Any manufacturer or dealer of any commercial fertilizer, or any person or company who shall sell, offer or expose for sale any fertilizer without having previously complied with the provisions or have violated any of the provisions of this Act, shall be fined not less than fifty dollars nor more than three hundred dollars for each violation or evasion of this Act.

§ 12. The Director shall have power to refuse the registration and sale of any commercial fertilizer under a name which would be misleading or contain any substance in amounts that would be injurious to plants, or any mixed fertilizer containing less than sixteen percent plant food or when the plant food nutrient or nutrients are below the standards adopted for commercial fertilizer by said Director.

§ 13. The Director shall have authority and is hereby empowered to specify and fix the minimum content of any plant nutrient that materials and mixtures of materials may contain or the maximum content of any injurious substance permissible in a commercial fertilizer before such fertilizer can be sold or offered for sale in the State. He shall also have authority to specify the form in which the percentages of plant nutrients shall be expressed and printed on the

label. The Director also shall have power to make and enforce such rules and regulations as he may deem necessary to carry into effect the intent and meaning of this Act.

§ 14. The Director of said Kentucky Agricultural Experiment Station is authorized to require all manufacturers, importers, jobbers, firms, associations or persons who sell fertilizers in the State to make and file with said Director the first day of each month reports of sales by grades of all fertilizers sold by them during the preceding month in such form as prescribed by said Director.

§ 15. If any clause, sentence, paragraph or part of this Act shall be held invalid by any court of competent jurisdiction such judgment shall not affect, impair, or invalidate the remainder of the Act and the application thereof shall not be affected thereby.

§ 16. All laws and parts of laws in conflict with this Act are hereby repealed.

By Mr. King.

H. B. 346. AN ACT to regulate the manufacture and sale of Canned Dog and Cat Feed in Kentucky, defining same, providing for its labeling, inspection, analysis and fixing penalties for violations thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The term "Canned dog and cat feed" as used in this Act shall mean any article of feed, whether single or mixed ingredients packed in hermetically sealed containers and used as feed for dogs and cats.

§ 2. Before any manufacturer, importer, jobber, firm, dealer, corporation, or person shall sell, offer or expose for sale or distribution in this State any canned dog and cat feed

he or they shall apply for registration and file with the Director of the Kentucky Agricultural Experiment Station annually or as prescribed by the Director a certified statement of each and every brand on forms approved or furnished by him printed in the English language clearly and truly certifying:

1. The net weight of the contents of the can or container.

2. The brand or trade name under which the feed is sold.

3. The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

4. The percentages of the following:

a. Minimum crude protein.

b. Minimum crude fat.

c. Maximum crude fiber.

d. Maximum water.

5. The specific names of the ingredients of which the feed is made.

6. The percentage of any added mineral material contained in the feed.

§ 3. The manufacturer's label or the label of the person responsible for placing the commodity on the market attached directly to the can or container shall contain the guaranteed statement as provided in Section 2 of this Act in terms and manner approved by the Director. Each parcel or package containing dog and cat feed or containers in multiple lots of twelve pounds, 24 pounds and 48 pounds or other lots approved by the Director shall have attached to it in a conspicuous place a stamp or label to be furnished by the Director of the Kentucky Agricultural Experiment Station on which is printed the guaranteed statement in section 2 of this Act in terms approved by the Director

§ 4. Net weight of canned dog and cat feed shall be one pound or in such weights as may be approved by said Director.

§ 5. The label attached according to section 2 to any parcel or package of canned dog and cat feed sold, offered or exposed for sale in this State, shall be accepted as the guaranty of the manufacturer, dealer or agent that the feed contains the kind and amount of nutrients printed on the label and any person fraudulently attaching or permitting to be attached to any parcel or package of canned dog and cat feed a fraudulent or counterfeit label, a genuine label used a second time, or a label representing such canned dog and cat feed to contain a larger percentage of protein and fat or less percentage of fiber and water than is actually found by analysis to be contained in the said dog and cat feed, or less than the net weight required or who adulterates said feed, may be fined as provided in section 9 of this Act and may also be fined for reasonable damage sustained by the purchaser of such feed.

§ 6. Each and every manufacturer, importer, jobber, agent, dealer or person who sells canned dog and cat feed shall pay to the Director of the Kentucky Agricultural Experiment Station a fee for stamps or labels in lots of 500 or some multiple thereof required by them under section 3 or this Act. Upon the receipt of this fee, it shall be the duty of said Director to furnish the manufacturer, jobber, agent, or dealer of canned dog and cat feed with stamps or labels to be placed on parcels or packages of dog and cat feed as follows: If the sum of the net weight of the individual package or parcel is not over 12 pounds, a one cent stamp or label; if the sum of the net weight is not over 24 pounds, a one and one-half cent stamp or label; if the sum of the net weight is not over 48 pounds, a two cent stamp or label. Such stamps or labels shall be printed in such form and manner as may

be prescribed by the Director of said Kentucky Agricultural Experiment Station.

§ 7. The Director shall pay all such fees or money received by him into the Treasury of the University of Kentucky, the said money to be used in meeting all necessary expenses in carrying out the provisions of this Act, including the employment of assistants, inspectors, analysts, investigations, practical and scientific experiments that will inure to the benefit of owners of dogs and cats, printing bulletins and other legitimate expenses of the Kentucky Agricultural Experiment Station as may be of practical use to the farmers.

§ 8. The Director shall have power to refuse the registration and sale of any canned dog and cat feed under a name which would be misleading as to the ingredients of which it is made or contain any substance that would be injurious to the health of dogs and cats, or contain less nutrients than the minimum standard established for such feeds, or otherwise that would violate the provisions and purpose of this Act.

§ 9. The Director is hereby authorized in person or by deputy to take samples for analysis from any lot or package of canned dog and cat feed and to have free access during regular business hours to all places of business, buildings, stores, cars or places of whatever kind in the manufacture, tranportation, sale or storage of any canned dog and cat feed, and shall have the power and authority to inspect, to take samples for analysis and examine the books and records of any manufacturer, dealer or person of shipments of dog and cat feed received and sold.

§ 10. Any manufacturer, dealer, agent, clerk or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any duly authorized inspector or other person in the performance of his duty in making inspection and collecting samples or otherwise on duty in connection with this Act, shall be guilty of violating this Act and shall upon conviction be fined not less than $25.00.

§ 11. Any manufacturer or dealer of any canned dog and cat feed, or any person or company who shall sell, offer or expose for sale any canned dog and cat feed without having previously complied with the provisions or have violated any of the provisions of this Act or adulterated or misbranded such dog and cat feed, shall be fined not less than $25.00 nor more than $300.00 for each violation or evasion of this Act.

§ 12. The following minimum quality standards are hereby established for the purpose of this Act, but it shall be understood and directed that the Director is authorized to revise and to increase the quality of these standards when he finds it to the best interest of the feeders to do so:

1. Minimum crude protein 10%
2. Minimum crude fat 2%
3. Maximum crude fiber 1½%
4. Maximum water 72%

§ 13. Canned dog and cat feed shall be deemed to be adulterated if it consists in whole or in part of any substance except edible meat and meat by-products, edible cereals and other food products, and edible mineral and vitamin substances claimed by the manufacturers; or if it has been prepared or packed under insanitary conditions; or contains in part or in whole any material which is tainted unsound, unwholesome, or unfit for food; or does not meet the guaranty of the manufacturer in the ingredients and analysis; or if materials of inferior quality or less feed value have been substituted in whole or in part for materials declared in the registration and on the label.

§ 14. The Director shall have authority and is hereby empowered to adopt minimum quality standards, and to make and enforce such rules and regulations as he may deem necessary to carry into effect the intent, purpose and meaning of this Act.

§ 15. If any clause, sentence, paragraph or part of this Act shall be held invalid by any court of competent jurisdiction such judgment shall not affect, impair, or invalidate the remainder of the Act and the application thereof shall not be affected thereby.

§ 16. All laws and parts of laws in conflict with this Act are hereby repealed.

By Mr. Leonard.

H. B. 347. An Act authorizing the Governor to transfer to the Department of Conservation, for the use and benefit of the Division of Game and Fish, the possession, control and management of one hundred acres of land located in Mercer County, Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Governor may, by executive order, transfer to the Department of Conservation, for the use and benefit of the Division of Game and Fish, the right of possession, control and management of the following described real estate:

"Beginning at a point in the center line of a county road known as Hughes Lane at the intersection of a projection of a fence line marking the boundary between the property of the Commonwealth of Kentucky and that of John Kent, said point being the southeast corner of a parcel of land purchased by the Commonwealth of Kentucky from Fannie R. Huguely, et al., in Mercer County, Kentucky.

"Thence along the center line of the county road south 63 deg. 00′ W 3570 feet to the right-of-way line of a road running from the State hospital building site, northwardly through the property of the Commonwealth of Kentucky.

"Thence with the right-of-way of said road, north 8 deg. 45′ west, 490 feet to the point of a curve to the left.

"Then with the curve, whose functions are: Delta 21 deg. 24′ left; degree 10 deg. 00; Tangent 108 feet, Length 214 feet and Radius 573.7 feet; 214 feet to the point of tangency.

"Thence, north 30 deg. 09′ west 144 feet to the point of a curve to the right.

"Thence, with the curve whose functions are: Delta 32 deg. 06′; Tangent 154 feet; Degree 10 deg. 42′; Length 300′ and Radius 356.3 feet, 300 feet to the point of tangency.

"Thence, north 2 deg. 00′ east 912 feet to a point of intersection with a wire fence.

"Thence, leaving the right-of-way of the road and continuing with said fence south 86 deg. 30′ east 1165 feet to a fence corner.

"Thence, north 81 deg. 30′ east 1172 feet to a fence corner.

"Thence, north 63 deg. 30′ east 773 feet to a fence marking the boundary between the property of the Commonwealth of Kentucky and the property of John Kent. Thence with Kent's line south 26 deg. 30′ east 922 feet to the point of beginning, containing 100.00 acres, more or less, and being a part of a parcel of land granted to the Commonwealth of Kentucky by Fannie R. Huguely, W. R. Huguely, Bessie L. Huguely and Miriam B. Huguely, being recorded in the office of the county clerk of Mercer County, Kentucky, in Deed Book 111, page 342, and dated May 22, 1937."

§ 2. The Governor may, by executive order, direct the Department of Welfare to relinquish all possession, control and use of said real estate and to execute all necessary instruments to effect such relinquishment and to vest the legal title in the Commonwealth to the extent it is not now so vested.

§ 3. Emergency Clause. Whereas the Department of Welfare of the Commonwealth of Kentucky has no further use for the land mentioned in this Act, and

Whereas the Division of Game and Fish of the Department of Conservation of the Commonwealth of Kentucky has been delayed because of inadequate land in the construction of a Fish Hatchery, and

Whereas the operation of a Fish Hatchery is of a seasonal nature, an emergency is hereby declared to exist and this Act shall become effective immediately after its passage and approval by the Governor.

By Mr. Brown.

H. B. 349. An Act relating to revenue and taxation, repealing, amending and re-enacting Section two (2) of Chapter seventeen (17) of the Acts of the Third Extraordinary Session of 1936 of the General Assembly of the Commonwealth of Kentucky, now codified in Baldwin's 1936 Edition of Carroll's Kentucky Statutes, as Section 4281j-2, said Act being entitled "An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency;" and providing for an allowance to persons collecting and accounting for such tax.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section two (2) of Chapter seventeen (17) of the Acts of the Third Extraordinary Session of the 1936 General Assembly being entitled "An Act relating to revenue and taxation of the gross receipts of utilities and declaring an emergency," said Section now being codified as Section 4281j-2 of Carroll's Kentucky Statutes, Baldwin's Edition of 1936, reading as follows:

"An excise tax is hereby imposed on the sale of electric current, water, artificial, natural or mixed gas, and on furnishing the ways or means for the transmission of the voice or messages other than those transmitted by United States

Mail from one person in the Commonwealth to another person in the Commonwealth, equal to three per cent (3%) of the aggregate gross receipts of such persons so engaged in such respective businesses; and every such person is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this Act. Provided, however, that no tax shall be imposed upon the transmission of the voice and/or messages for, or upon sales of electric current, water, artificial, natural, or mixed gas to, the United States, this State, any Kentucky municipality, any political subdivision of this State, or any charitable, religious, or educational institution in Kentucky; and provided, further, that no tax is by this section imposed upon sales of electric current, water, artificial, natural or mixed gas for the purpose of resale, nor upon the sale of electric current or artificial or natural gas for use in manufacturing, processing, mining or refining. Sales of electric current, water, artificial, natural or mixed gas, in interstate commerce are specifically excluded from the provisions of this Act."

Be and the same is hereby repealed, amended and reenacted so that as amended and reenacted it shall read as follows:

"An excise tax is hereby imposed on the sale of electric current, water, artificial, natural or mixed gas, and on furnishing the ways or means for the transmission of the voice or messages other than those transmitted by United States Mail from one peron in the Commonwealth to another person in the Commonwealth, equal to three per cent (3%) of the aggregate gross receipts of such persons so engaged in such respective businesses; and every such person is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this Act. The Department shall allow each person collecting such tax a sum equal to three (3%) per cent of the tax so collected and accounted for, as compensation for collection costs,

handling and accounting for such tax. Provided, however, that no tax shall be imposed upon the transmission of the voice and/or messages for, or upon sales of electric current, water, artificial, natural or mixed gas to, the United States, this State, any Kentucky municipality, any political subdivision of this State, or any charitable, religious or educational institution in Kentucky; and provided, further, that no tax is by this section imposed upon sales of electric current, water, artificial, natural or mixed gas for the purpose of resale, nor upon the sale of electric current or artificial or natural gas for use in manufacturing, processing, mining or refining. Sales of electric current, water, artificial, natural or mixed gas, in interstate commerce are specifically excluded from the provisions of this Act."

By Mr. Leonard.

H. B. 350. An Act to provide for the election of members of boards of education; for the petition of candidates for members of the county board of education by divisions; and repealing, amending and re-enacting Sections 19, 20 and 21 of Chapter 65 of the Acts of 1934, being Sections 4399-24, 4399-25 and 4399-26 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 19, 20 and 21 of Chapter 65 of the Acts of 1934, being Sections 4399-24, 4399-25 and 4399-26 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and re-enacted so that when repealed, amended and reenacted, they shall read as follows:

(1) Section 4399-24, Kentucky Statutes. *Manner of Election of School Board Members.* School board members shall be elected for a term of four years. In independent

school districts, the members shall be elected from the district at large; in county school districts, members shall be elected from divisions.

The board of education of each county school district in the State shall, not later than July 1, 1940, divide their respective county school districts into five divisions as nearly equal in population and containing integral voting precincts in so far as is practicable. When it is made necessary by changes in precinct boundaries or shifts in population, the county board of education may alter the boundary of the educational divisions in order to equalize the population of the divisions or to make them conform to precincts but no change shall be made in the boundaries of the divisions within six months prior to the day in which a member of the school board is to be elected from the division. A record of the boundaries of each division and any changes which may be made in the division line shall be kept in the office of the county board of education.

Any citizen in the district may prosecute an appeal from the action of the board in making a division line or a change thereof to the county court and from the county court to the circuit court of the county in which the district is located. The procedure on appeal shall be the same as in other civil cases.

(2) Section 4399-25, Kentucky Statutes, *Election by Secret Ballot; Nominating Petitions; Ballots; General Election Laws Applicable; Procedure.* All elections for members of boards of education shall be by secret ballot. The ballot shall be on a separate sheet from all other ballots used in any election. The county clerk shall cause to be printed on the ballot the names of legally eligible candidates in whose behalf he is petitioned to do so in writing, by not less than fifty legal voters of the county school district division or independent school district as the case may be; provided that in independent school districts embracing cities of the first and

second class the number of such petitioners shall not be less than one hundred. The petitions must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons, and shall show the district or division of the county district, as the case may be, and the place of residence of each person signing it. In county school district divisions no person shall sign more than one petition, and in independent school districts not more petitions than the number of offices to be filled.

The ballot shall be in the form prescribed for ballots by the general election law, except that no party emblems or other emblem or distinguishing mark shall be placed upon the ballot, save the words "School Ballot" at the head thereof; and that the names of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots; and such ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximaetly the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected from the district or division as the case may be.

The general election laws shall apply to all school elections. The sheriff of each county in which a school district is situated shall provide for each precinct in the district a separate box for the reception of ballots used in the election of members of the board of education. The judge of election of the opposite political party to the clerk of election in each precinct shall issue the school ballots in the same manner as

other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub and his registered number, in districts where registration is required by law, upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally.

An election officer or other person within the election booth telling or indicating to a voter the political affiliation of any candidate shall be punished by fine not exceeding two hundred dollars.

The expense of the election shall be paid by the fiscal court out of the general funds of the county in all school districts except those embracing cities of the first five classes; in such case, the expense of the election shall be paid by the city from its general funds.

(3) Section 4399-26, Kentucky Statutes. *Number of Candidates to be Voted For. In county school districts,* the names of the candidates shall be arranged on the ballot by divisions in accordance with the petitions filed with the county clerk. The voting in each case shall be by the district at large. Each voter shall be issued a school ballot and shall have the privilege of voting for only one candidate in each division by making a cross in the square opposite the name of each candidate for whom he wishes to vote. The legally eligible candidate in any division receiving the highest number of votes shall be declared elected.

In independent school districts each voter may vote for as many candidates as there are members to be elected by making a cross in the square opposite the name of each candidate for whom he wishes to vote, and the ballot shall show the number of board members to be elected. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

By Mr. Perkins.

H. B. 351. An Act relating to Workmen's Compensation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4893 of Carroll's Kentucky Statutes, 1936 edition, as amended by section 3 of Chapter 25 of the Acts of 1936, fourth extraordinary session, is amended to read as follows:

4893. *To whom compensation is payable in case of death; burial expenses; no dependents; where dependents; partial dependents.* If death results within two years from an accident for which compensation is payable under this act, the employer or his insurer shall pay to the person entitled to compensation, or, if none, then to the personal representative of the deceased employee reasonable burial expenses of a person of the standard of living of the deceased, not to exceed the sum of $150.00, and shall also pay to or for the following persons compensation as follows, to-wit:

(1) If there are no dependents, as herein defined, there shall be paid, in addition to the burial expenses and medical expenses, if any, otherwise provided for herein, the further sum of $100, payment to be made to the personal representative of the deceased employee.

(2) If there are one or more wholly dependent persons 75 per cent. of the average weekly earnings of the deceased employee, but not to exceed $18 nor less than $5 per week shall be payable, all such payments to be made for the period between the date of death and 335 weeks after the date of accident to the employee, or until the intervening termination of dependency, but in no case to exceed the maximum sum of $6,000.00.

(3) If there are partly dependent persons, the pay-

ments shall be such part of what would be payable for total dependency as the partial dependency existing at the time of the accident to the employee may be proportionate to total dependency, and all such payments to be made for the period between the date of death and 335 weeks after the date of the accident to the deceased employee, or until the intervening termination of dependency, but in no case to exceed in the aggregate of compensation on account of such death the maximum sum of $6,000.00.

Partial dependency shall be determined by the proportion of the earnings of the employee which have been contributed to such partial dependent during one year next preceding the date of injury; if the relation of partial dependency shall not have existed for one year next preceding the date of injury, the board shall consider all the facts and circumstances and fix such proportion as may be fair and reasonable thereunder.

(4) All relations of dependency, herein referred to shall be construed to mean dependency existing at the time of accident to the employee.

§ 2. Section 4897 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4897. *Total disability, compensation for; what deemed; total following partial disability; total disability outside of specified injuries.* When the injury causes total disability for work, the employer, during such disability, except the first seven days thereof, shall pay the employee so injured a weekly compensation equal to seventy-five per cent (75%) of his average weekly earnings, not to exceed eighteen dollars ($18.00) nor less than five dollars ($5.00) per week, such payments to be made during the period of total disability but not longer than four hundred forty-four weeks after the date of the injury, nor in any case to exceed a maximum sum of eight thousand dollars ($8,000.00). In case the period of total disability begins after a period of partial disability

shall be deducted from the total period of four hundred forty-four weeks during which compensation for total disability may be payable, and the payments made on account of such partial disability shall be deducted from the maximum of eight thousand dollars ($8,000.00). In case of the following injuries the disability shall be deemed total and permanent, to-wit:

1. The total and permanent loss of sight in both eyes.
2. The loss of both feet at or above the ankle.
3. The loss of both hands at or above the wrist.
4. A similar loss of one hand and one foot.
5. An injury to the spine, resulting in permanent and complete paralysis of both arms or both legs, and of one arm and one leg.
6. An injury to the skull resulting in incurable insanity or imbecility.

The above enumeration is not to be taken as exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries have resulted in permanent total disability.

§ 3. Section 4898 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4898. *Temporary partial disability; compensation.* In case of an injury resulting in temporary partial disability, the employee shall receive during such disability, except the first seven days thereof, a weekly compensation equal to seventy-five per cent (75%) of the difference between his average weekly earnings which he earns, or is able to earn, in some suitable employment after the injury and during such disability, not to exceed 333 weeks from the date of injury, nor exceeding the sum of eighteen dollars ($18.00) per week nor the maximum sum of six thousand dollars ($6,000.00). In case partial disability follows a period of total disability, such period of total disability shall be deducted from the maximum period allowed for partial dis-

ability and the benefits paid on account thereof from the maximum allowed for partial disability:

§ 4. Section 4899 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4899. *Partial permanent disability; compensation for specified injuries; other similar disabilities.* For injuries enumerated in the following schedule the employee shall receive in lieu of all other compensation, except such as may be payable under sections 4883 and 4885 hereof, a weekly compensation equal to seventy-five per cent (75%) of his average weekly earnings, but not less than five dollars ($5.00) per week nor exceeding fifteen dollars ($15.00) per week for the respective periods stated thereon, to-wit:

For the loss of a thumb, seventy-five per cent (75%) of the average weekly wages during 60 weeks.

For the loss of a first finger, commonly called the index finger, seventy-five per cent (75%) of the average weekly wages during 45 weeks.

For the loss of a second finger, seventy-five per cent (75%) of the average wages during 30 weeks.

For the loss of a third finger, seventy-five per cent (75%) of the average weekly wages during 20 weeks.

For the loss of a fourth finger, commonly known as the little finger, seventy-five per cent (75%) of the average weekly wages during 15 weeks.

The loss of the second, or distal phalange, of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third, or distal phalange, of any finger shall be considered to be equal to the loss of one-third of such finger.

The loss of middle, or second phalange, of any finger

shall be considered to be equal to the loss of two-thirds of such finger.

The loss of more than the middle and distal phalanges of any finger shall be considered to be equal to the loss of the whole finger; provided, however, that in no case will the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a metacarpel bone (bone of palm) for the corresponding thumb, finger or fingers above add ten weeks to the number of weeks as above.

For ankylosis (total stiffness of) or contractures (due to scars or injuries), which makes the fingers more than useless, the same number of weeks apply to such finger or fingers (not thumb) as given above.

For the loss of a hand, seventy-five per cent (75%) of the average weekly wages during one hundred and fifty weeks.

For the loss of an arm, seventy-five per cent (75%) of the average weekly wages during two hundred weeks.

For the loss of one of the toes, other than the great toe, seventy-five per cent (75%) of the average weekly wages during 10 weeks.

For the loss of the great toe, seventy-five per cent (75%) of the average weekly wages during thirty weeks.

The loss of more than two-thirds of any toe shall be considered equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half toe.

For the loss of a foot, seventy-five per cent (75%) of the average weekly wages during 125 weeks.

For the loss of a leg, seventy-five per cent (75%) of the average weekly wages during 200 weeks, or the total and permanent loss of the sight of an eye, seventy-five per cent (75%) of the average weekly wages during 100 weeks.

In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employee, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employee and age at the time of injury; the compensation paid therefore shall be seventy-five per cent (75%) of the average weekly earnings of the employee, but not less than five dollars ($5.00) nor more than fifteen dollars ($15.00), multiplied by the percentage of disability caused by the injury, for such period as the board may determine, not exceeding 335 weeks nor a maximum sum of five thousand dollars ($5,000.00). Whenever the weekly payments under this paragraph would be less than three dollars ($3.00) per week, the period may be shortened and the payments correspondingly increased to that amount. Where compensation, except as provided in sections 4883 and 4885 of this act, is paid under any other provision of this act, the period during which such other compensation is paid and the amount thereof shall be deducted respectively from the maximum period and maximum amount which may be paid under this paragraph.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills previously introduced, as follows, viz.:

H. B. 340. To Committee on Kentucky Statutes No. 1.

H. B. 348. To Committee on County and City Courts.

Mr. Daugherty moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon Mr. Daugherty of the Committee on Kentucky Statutes No. 1 to which the same had been previously referred, reported a bill entitled:

H. B. 153. An Act to amend Sections 2, 10 and 19 of Chapter 105 of the Acts of 1938, compiled as sections 4767a-1, 4767a-8 and 4767a-17 of Baldwin's Kentucky Statute Service, May 1938, relating to wages of women and minors.

Without an expression of opinion.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 35. An Act relating to revenue and taxation, amending sec. 4281f-1 as amended by Chapter 34 of the Acts of 1938 etc.

With a Committee amendment thereto by way of Substitute therefor.

Mr. Joe E. Robinson moved that said bill be made a Special Order of the Day for tomorrow at two-thirty o'clock P.M.

Said motion was agreed to.

Mr. Hunnicutt moved that the House do now take up for consideration from the Clerk's desk, a bill entitled:

H. B. 6. An Act repealing Chapter 55 of the Kentucky Acts, Regular Session, 1938.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 55 of the Acts of the Regular Session of the General Assembly, 1938, entitled, "An Act relating to the sale, control, and licensing of the sale of appliances, drugs and medicinal preparations intended or having special utility for the prevention of venereal diseases,"—being Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of said chapter, are hereby repealed in their entirety.

Mr. Scheben moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	John Coulter	Eugene Gough
Robert E. Barry	Louis B. Dugan	C. L. Hammons
Sterling B. Blake	Harry W. Ennis	Chester Huffines
W. S. Brim	R. R. Ernst	J. B. Jarboe, Jr.
C. J. Bronston	Cecil Florence	Chas. X. Jones
Gus A. Brooks	Wayne Freeman	Edward Leslie

W. Paul Lyon	Leon J. Shaikun	Walter R. Vansant
Norris McPherson	Faust Y. Simpson	Porter Wallace
G. Sam Milam	G. C. Springate	Harry F. Walters
H. O. Porter	T. M. Swope	Otis White
Carl Scheben	Erna E. Tyra	—32

Those who voted in the negative were—

J. Everett Bach	Carlos Fallis	Kleber F. Price
Alvis S. Bennett	Ralph C. Hamilton	Hobart Rayburn
J. F. Bosworth	T. H. Hickey	Thomas Rigdon
Randolph A. Brown	Clyde S. Howard	W. H. Riley
Haynes Carman	John M. Hunnicutt	Ray O. Shehan
Charles M. Carter	W. H. Hunt	Bruce Sloan
James W. Chapman	R. L. Jackson	E. T. Sparks
S. B. Chrisman	Harvey D. Leonard	J. Claude Stacy
John H. Cox	Stanley C. Moebus	S. J. Wagner
Pink G. Curd	John B. Mollette	Henry Ward
F. E. Daugherty	Davis Moore	H. L. Waterfield
Stanley S. Dickson	Joe T. Morgan	James H. Woods
Forest C. Easley	C. Homer Neikirk	
D. E. Edwards	B. W. Porter	—40

Mr. Scheben moved that the vote by which said bill was rejected be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 238. An Act to repeal, amend and re-enact Sec. 1283a-5, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Mr. Brim moved that said bill be made a Special Order of the Day for tomorrow at eleven o'clock A.M.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 118. AN ACT providing that no person shall kindle or start any fire in a public or private road, on or in the woods adjacent thereto, without keeping said fire under control, and totally extinguishing same upon leaving; and providing a punishment for any one found guilty of violating this Act.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

No person shall, or by the direction of his servants, agents, or guides, kindle or start any fire in or near a public or private road, or in any wooded area or forest adjacent thereto in this Commonwealth unless such fire shall be under the control of said persons at all times, and said person shall, before leaving said fire, totally extinguish it.

Any person or persons violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars

($100.00) or imprisonment in the county jail not more than ninety (90) days, or both fine and imprisonment, within the discretion of the court or jury trying the case.

Mr. Chapman offered the following amendments to said bill, viz.:

1. Amend H. B. 118 by adding immediately following the enacting clause and preceding the word "No person" in line 1, the following paragraph:

"Section 1255-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:"

2. Amend H. B. 118 on page 1, line 3 by striking out the words "adjacent thereto"

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	W. S. Brim	F. E. Daugherty
J. Everett Bach	Gus A. Brooks	Stanley S. Dickson
H. T. Baker	Randolph A. Brown	Louis B. Dugan
Robert E. Barry	Haynes Carman	Forest C. Easley
Wm. T. Beard	James W. Chapman	D. E. Edwards
Alvis S. Bennett	S. B. Chrisman	Harry W. Ennis
Sterling B. Blake	John Coulter	R. R. Ernst
Douglas T. Bolling	John H. Cox	Carlos Fallis
J. F. Bosworth	Pink G. Curd	Cecil Florence

Wayne Freeman	T. B. McConnell	Faust Y. Simpson
Eugene Gough	Frank C. McElwain	Bruce Sloan
Van Y. Greene	E. Hayes McMakin	Otto Smither
Ralph C. Hamilton	Norris McPherson	E. T. Sparks
C. L. Hammons	Stanley C. Moebus	G. C. Springate
T. H. Hickey	John B. Mollette	J. Claude Stacy
Clyde S. Howard	Davis Moore	Ray J. Stengel
Chester Huffines	J. Lee Moore	W. St. Clair Stuart
John M. Hunnicutt	Joe T. Morgan	T. M. Swope
W. H. Hunt	C. Homer Neikirk	Otis C. Thomas
R. L. Jackson	Carl D. Perkins	Erna E. Tyra
J. B. Jarboe, Jr.	B. W. Porter	S. J. Wagner
Chas. X. Jones	Kleber F. Price	Porter Wallace
W. A. Lamkin, Jr.	Hobart Rayburn	Harry F. Walters
Robert E. Lee	Thomas Rigdon	Henry Ward
Harvey D. Leonard	Joe E. Robinson	H. L. Waterfield
Edward Leslie	Lyman Roll	Otis White
W. Paul Lyon	Carl Scheben	James H. Woods
C. C. May	Leon J. Shaikun	—83

Mr. Chapman offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 118 by substituting a comma for the period following the word "Act" in the last line of the title, and adding the following "and amending section 1255-1 of Carroll's Kentucky Statutes, 1936 edition."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Chapman moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 177. An Act relating to the filing of certificates of election.

Mr. Ward moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. J. Lee Moore moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon Mr. J. Lee Moore of the Committee on Appropriations No. 1 to which the same had been referred, reported resolutions of the following titles, viz.:

H. Res. 60. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and $750.00 for a contingent fund for the Clerk of the House.

H. Res. 61. Resolution providing for the purchase of the "Legislative Digest"

With the expression of opinion that said resolutions ought to pass.

Said resolutions were read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 7. Resolution authorizing Malcolm Godsey, Jr., by his statutory guardian, Malcolm Godsey, Sr., to sue the Commonwealth.

Mr. Hammons moved that said resolution, together with House Resolutions Nos. 8, 9, 10, 11 and 12 be made Special Orders of the Day for Friday, February 9, at eleven o'clock A.M.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A.M.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, FEBRUARY 8, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Fred T. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Gus A. Brooks	Louis B. Dugan
J. Everett Bach	Randolph A. Brown	Forest C. Easley
H. T. Baker	Haynes Carman	D. E. Edwards
Robert E. Barry	Charles M. Carter	Harry W. Ennis
Wm. T. Beard	James W. Chapman	R. R. Ernst
Alvis S. Bennett	S. B. Chrisman	Carlos Fallis
Sterling B. Blake	John Coulter	T. P. Fitzpatrick
Douglas T. Bolling	John H. Cox	Cecil Florence
J. F. Bosworth	Pink G. Curd	Wayne Freeman
W. S. Brim	F. E. Daugherty	Eugene Gough
C. J. Bronston	Stanley S. Dickson	Van Y. Greene

Ralph C. Hamilton	Norris McPherson	Bruce Sloan
C. L. Hammons	G. Sam Milam	Otto Smither
T. H. Hickey	Stanley C. Moebus	E. T. Sparks
Clyde S. Howard	John B. Mollette	G. C. Springate
Chester Huffines	Davis Moore	J. Claude Stacy
John M. Hunnicutt	J. Lee Moore	Ray J. Stengel
W. H. Hunt	Joe T. Morgan	Henry Stewart
R. L. Jackson	C. Homer Neikirk	W. St. Clair Stuart
J. B. Jarboe, Jr.	Carl D. Perkins	T. M. Swope
Chas. X. Jones	B. W. Porter	Otis C. Thomas
John S. Juett	H. O. Porter	Erna E. Tyra
William K. King	Kleber F. Price	J. Wood Vance
W. A. Lamkin, Jr.	Hobart Rayburn	Walter R. Vansant
Robert E. Lee	Thomas Rigdon	S. J. Wagner
Harvey D. Leonard	W. H. Riley	Porter Wallace
Edward Leslie	Joe E. Robinson	Harry F. Walters
W. Paul Lyon	Lyman Roll	Henry Ward
C. C. May	Carl Scheben	H. L. Waterfield
T. B. McConnell	Leon J. Shaikun	Otis White
Frank C. McElwain	Ray O. Shehan	James H. Woods
E. Hayes McMakin	Faust Y. Simpson	—95

Mr. Rayburn moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Howard moved that the privilege of the floor be extended to Mr. and Mrs. G. C. Birkhead and Mrs. Howard.

Said motion was agreed to.

Mr. Rayburn moved that the privilege of the floor be extended to Mr. Chester Silvers of Lexington, Kentucky.

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be ex-

tended to Mrs. Jess Stone, Mrs. Robert Kirby, Miss Emily Pemberton and Mr. Frank Kirby of Warren county.

Said motion was agreed to.

Mr. Jarboe moved that the privilege of the floor be extended to Mr. Joe B. Jarboe, Spalding Southall, Judge Jarboe R. Thomas, Everitt Bunditte of Lebanon, Kentucky.

Said motion was agreed to.

Mr. King moved that Miss Virginia Dell Juett of Williamstown, Kentucky and Miss Joy Hardin of Lexington, Kentucky be appointed Honorary Pages of this House.

Said motion was agreed to.

Mr. Bronston moved that the privilege of the floor be extended to Mr. Morgan and Miss Hillenmeyer, students of the University of Kentucky.

Said motion was agreed to.

Thereupon Mr. Morgan and Miss Hillenmeyer took their place at the Clerk's desk and issued an invitation to the membership of the House to attend the reception to be given by the University of Kentucky for the Governor on February 13.

Mr. Daugherty expressed the appreciation of the House for the invitation.

Mr. Roll moved that a bill entitled:

H. B. 239. An Act to include in exemptions of property for a person with a family, one automobile not exceeding $500.00 in value.

Which was reported by the Committee on Kentucky Statutes No. 1 on February 6, with the expression of opinion that said bill ought not to pass,

Be advanced to a reading, the report of the Committee to the contrary notwithstanding.

Without objection, said motion was withdrawn by Mr. Roll.

The following bills and resolutions were introduced, viz.:

By Mr. Perkins.

H. B. 352. AN ACT relating to the open season on wild animals and birds and amending section 57 of Chapter 107 of the Acts of 1938, compiled as section 1954d-57 of Baldwin's Kentucky Statute Service, April, 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 57 of Chapter 107 of the Acts of 1938, compiled as section 1954d-57 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

Open season; penalty for taking or possession at other times.

Any person who takes or has in his possession in this state any wild animal protected by this Act, except during the open season for the particular species provided herein, shall be guilty of a misdemeanor and fined not less than fifteen dollars nor more than one hundred dollars for each offense. Open seasons are as follows:

Mink, Opossum, Raccoon, Red Fox, Skunk and Muskrat, November 1 to December 31.

Otter and Beaver, no open season.

Squirrels, August 25 to November 15

Rabbits, November 24 to January 9.

§ 2. A new section of the Kentucky Statutes is enacted, to read and be numbered as follows:

1954d-9a. Emergency open season on animals or birds injuring crops.

The Director, whenever he has reasonable grounds to believe that wild animals or wild birds of any species are so numerous in any locality as to be destructive to crops, may declare an emergency open season on such animals or birds, for not longer than six weeks in any one year, in addition to the open season then provided for by law. The emergency open season may be made to apply to the whole state or to any one or more counties.

§ 3. *Emergency declared.* Since the present open season on squirrels begins so early that many young squirrels are killed, and the short open season on other wild animals and birds is inadequate to protect crops in many localities, an emergency is declared to exist, and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Ennis.

H. B. 353. AN ACT to amend section 1 of Chapter 5 of the Acts of 1938, first extraordinary session, compiled as section 2554b-179 of Baldwin's Kentucky Statute Service, May, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 5 of the Acts of 1938, first extraordinary session, compiled as section 2554b-179 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

2554b-179. *Hours and times sales prohibited.* (1) No premises for which there has been granted a license for the

sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and eight o'clock A. M. on any day, or at any time during the twenty-four hours of a Sunday or an election day; but,

(2) If a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee he may apply to the Department for a permit to allow the remainder of his premises to remain open during the times mentioned in subsection (1). After an inspection of the premises by agents of the Department the commissioner may issue a permit to the licensee to keep the remainder of his premises open during such part of the times mentioned in subsection (1) as are not prohibited by a law other than this section.

(3) In addition to the penalties prescribed by 2554b-196, the license of any licensee, whether he holds a permit under subsection (2) or not, selling, giving away, or delivering any distilled spirits or wine during the periods when premises are required to be closed under subsection (1), shall be revoked for the first offense, and the licensee shall not thereafter be granted any kind of license under this Act.

By Mr. Stengel.

H. B. 354. AN ACT pertaining to the use of police radios and providing who may and may not use and have in their possession radio equipment capable of receiving or sending or interfering with police radio messages and declaring a violation of this act to be a misdemeanor and providing a penalty therefor including the escheat, forfeiture and destruction of any esuipment had or used in violation of this act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

It shall be unlawful for any person except a peace officer duly authorized to make arrests and also holding either a first, second or third class radio operator's license duly issued by the Federal Communications Commission, to have in his or her possession or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages, or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or who may, in any way intercept or interfere with the transmission of radio messages by any police or other peace officers. Any person guilty of violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than Fifty Dollars ($50.00) and not exceeding Five Hundred Dollars ($500.00), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this act, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the Trial Court to adjudge such equipment or apparatus destroyed, forfeited and escheated to the Commonwealth of Kentucky, or to any County, City or town within which such Court sits or holds its sessions and said property may be ordered destroyed, forfeited and escheated as above provided without a conviction of the person charged with violating this act.

By Mr. Shaikun.

H. B. 355. AN ACT permitting any first class city in the Commonwealth of Kentucky to acquire public utility

properties located within and partly outside of the city boundaries from any private company whose ownership or control is subject to transfer with respect to integration under the requirements of the Federal "Public Utility Act of 1935"; also providing for the mode or modes of acquisition, the financing thereof, the efficient municipal organization and operation of such properties, and for their extension both within and outside the city, and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. For the convenience of reference this Act may be cited as "The Public Utility Municipalization Act of 1940".

§ 2. *Acquisition of Utility Properties.* Any first class city in the Commonwealth of Kentucky is hereby empowered to acquire and operate the properties of a public utility corporation whose capital stock is owned within a holding company system and is subject to transfer as to ownership and control in compliance with the integration provisions of the federal "Public Utility Act of 1935". Through such acquisition the city may supercede the private corporation with respect to every phase of public utility service, both within and outside the municipal boundaries, including the ownership and operation of the physical properties, the franchises, leases, contracts, and other rights employed in public utility service, the operating organization, accounts and records, attached business, and the obligations to furnish utility service to the public.

§ 3. *Methods of Acquisition.* The acquisition provided for in the preceding section may be attained through negotiation between the city and the private corporation, or it may be brought about through condemnation of the properties for public purposes, as may be decided through municipal

legislation, provided that it may be submitted to a referendum at a special election to be held within sixty (60) days after the enactment of the municipal legislation. If the city is not able to acquire the properties at a reasonable price through negotiation, it is hereby granted special right to take them by means of public condemnation. For this purpose, besides the regular condemnation provisions, it may select the procedure of creating a special valuation board, to determine the fair value and reasonable compensation for the properties taken. Such a board shall consist of three members, one appointed by the city, one by the company, and the third by the preceding two; the third member shall be a person of recognized standing in the field of public utility valuation and shall be known to be fair and impartial to both private and public interests. In any procedure of condemnation, the compensation to be awarded shall be based upon the fair value of the properties as determined under the law of the land. Thus the value as found shall consist of the reasonable replacement cost, with due allowance for actual or historical cost, or prudent investment in the properties, less deduction for depreciation due to all causes, including physical and functional factors, especially obsolesence. In determining the replacement cost or actual cost of the properties, proper allowances shall be made for all recognized elements of cost, including engineering and superintendence, interest during construction, and other construction overheads, but no separate and additional provisions shall be made for so-called "going concern" and "franchise" values. The city may take possession of the properties and operate them pending the determination of their fair value, provided that the full compensation shall include interest from the time of taking possession until payment is made.

§ 4. *Method of Payment for the Properties.* For the purpose of compensating the private corporation for the dis-

position of the properties, the city is hereby authorized to issue revenue bonds whose interest and amortization shall be paid exclusively out of the returns obtained by the city from the operation of the properties as acquired and as subsequently extended. Such bonds may be executed as liens upon the properties and revenues of the utility to be operated by the city, and they shall be excluded from the general obligations of the city and from any dependance upon taxes or other sources of funds for interest payments and amortization. The city may enter into contracts to safeguard the bonds and to provide protection for the bondholders in the event that any default may take place. It may fix such interest rate or rates, dates or mode of bond retirement, and such other terms and conditions as may be for the best interest of the city and its inhabitants, and as may be agreed upon by the purchasers of the bonds, provided that the average net interest cost shall not exceed six per cent (6%) per annum during the life of the bonds, and that no bond shall be issued for a period longer than forty (40) years. The funds obtained through the issuance of such bonds may be used to pay all the costs of acquiring the properties, including the purchase price as agreed upon or determined through condemnation proceedings, provisions for working capital to permit efficient operation after acquisition, and the costs of negotiation and other procedures involved in obtaining the properties and establishing an appropriate operating organization. For the purpose of such acquisition, financing and establishment of an operating organization, the city may enter into a contract or contracts for special assistance and it may base the terms of compensation upon the successful consummation of the undertaking, and the payment of the city's obligations under such a contract or contracts may be included in the total costs of acquisition for which the revenue bonds are issued.

§ 5. *Operating Organization Provided by the City.* For the successful operation of the utility properties acquired

under this act, the city shall create an appropriate organization which shall be entrusted with the responsibility of carrying out the obligation of furnishing utility services to the public with economy and efficiency. The operating organization may consist of a special public board, or of a special corporation owned by the city, or of a public utility department within the regular divisions of municipal administration. Whichever form of organization may be adopted, the city is hereby granted power to effect the purpose of creating an effective operating structure, and through municipal legislation it shall establish such a body and make such provisions for organization, control, financing and operation as may be deemed appropriate for successful operation. Responsibility for proper organization is hereby lodged with the city, with broad and adequate powers, and without restrictions and requirements, except as herein provided.

§ 6. *Assurance of Efficiency.* Inasmuch as the establishment of such a city owned and operated utility system as provided for in this act involves profoundly the public interest of the city and the community and necessitates the adoption of the highest standards of economy and efficiency, the city is hereby authorized to provide such managerial positions as may be needed and to pay such salaries as may be necessary to obtain and keep individuals of the highest ability, training, experience, integrity and devotion to the public interest. Inasmuch as the managerial positions hereby provided for are technical and administrative in character and would not be paid out of taxes or other public funds, but would be compensated exclusively out of revenues received for special services furnished to utility consumers, they are hereby declared not to be public offices within the meaning of the Kentucky constitution. The city may also enter into special contracts with individuals and firms for authorized purposes in maintaining and promoting efficiency. The city shall be in duty bound to give constant considera-

tion to the advancement of efficiency, so that the highest standards of public interest may be progressively attained and conserved.

§ 7. *Merit System of Employment.* As a further condition of safeguarding and promoting efficient operation, the city shall establish through local legislation a system of employment under which all appointments, advancements and discharges shall be determined according to the best standards of civil service procedure or personal policies. No appointments shall be made for any position on political, religious, racial or other grounds except merit; nor shall any employee be discharged for any other reason except as justified under duly adopted standards and procedure. Upon the acquisition of the properties, all the existing utility operating organization shall be taken over by the city; thereafter at any time such changes in the managerial positions may be made as deemed necessary and desirable on grounds of efficiency; no employee below the managerial grade shall be discharged except within the provisions of duly adopted personnel standards, but there may be such readjustments within the operating departments as may be needed for proper organization and management. The city shall keep constantly adequate and competent personnel, but it shall not maintain positions not needed for efficient maintenance and operation. To prevent accumulation of unnecessary employees, a special survey and report shall be made at the close of each year as to the needs of efficient operation.

§ 8. *Rates and Revenues.* The utility system provided for in this act shall be conducted on a financially self-sustaining and self-liquidating basis. The city shall fix such rates for the various classes of service so as to provide sufficient revenues to cover all reasonable and necessary operating expenses and other costs chargeable to operation, including rentals, interest on bonds and other obligations, accruals for debt amortization, provisions for surplus, appropriations for

the extension and enlargement of the utility system, and such contributions to the general municipal purposes as may be determined by municipal legislation, provided that the fundamental obligations of public interest with regard to rates and service shall be duly carried out. For the protection of the properties, charges shall be made to operating expenses for adequate depreciation reserves and for such other reserves as may appear necessary or desirable. Rates shall be fixed according to standards duly adopted as a matter of financial policy enacted through municipal legislation. For systematic protection of public interest, the city shall make a comprehensive survey of the costs of operation and financial results at the close of each calendar or fiscal year, and shall thereupon make such reductions or changes in rates as may be justified by the facts disclosed. Such annual survey shall include also the formulation and adoption of an operating and capital budget for the ensuing year, with consideration of operating trends and prospective capital needs over a period of at least five years. In connection with such annual survey and redetermination of rates, the city may establish a profit sharing basis of annual rate adjustments whereby the increases in net earnings due to advancing economy and increasing business may be systematically divided between the city and the consumers entitled progressively to the lowest attainable rates.

§ 9. *Enlargement of Utility System.* After the acquisition of the utility system as provided for in this act, the city may reconstruct, improve, enlarge, and extend the properties and facilities as may be required for proper service of the public, both within and outside the municipal boundaries. It may also extend the facilities and service to territories and municipalities not included in the original acquisition, provided that any such extension may be economically established as decided by municipal legislation after due investigation and determination as to the facts,

and provided further that if such extensions are made into other municipal areas they shall have been duly approved through agreement by the additional municipalities brought into the utility system. For any enlargements and extensions the city may issue further revenue bonds within the terms and conditions as hereinabove prescribed, provided that such further issues are required in addition to the appropriations for expansion made annually out of the net earnings of the system.

§ 10. *Contracts with Others.* The city may enter into contracts with the Government of the United States, including the Tennessee Valley Authority, for the attainment of an economical and reliable supply of electricity. It may likewise contract with any state, municipality, private corporation or natural person for the purpose of obtaining the cheapest possible supply of electricity gas or other utility product. For the same purpose it may construct such transmission lines and facilities as may be needed, obtain the necessary rights of way, exercise the right of eminent domain, lease such facilities, otherwise procure any economical source of utility supply, and it may contract with any governmental body and private person with respect to any equipment, supplies, services and other matters which enter into the efficient conduct of the utility system.

§ 11. *Exclusive Municipal Control.* The utility system herein provided for shall be subject exclusively to the policies, organization, and management as determined through municipal legislation within the terms of this act. In acquiring properties, furnishing service, fixing rates, and in all other matters of management, the city shall not be subject to any consent of the Public Service Commission of Kentucky or of any other board or agency of the Commonwealth, provided that it shall keep all its utility accounts and records according to the uniform systems prescribed by the said Public Service Commission and shall make such

annual reports as may legally required on behalf of other municipally owned and operated utilities. Such accounting, records and reports shall be regarded as matters of public information, and shall not be construed as restrictions upon the rights and powers of the city in dealing with its own public utility system as duly established within the provisions of this act.

§ 12. *Construction and Constitutionality.* The powers conveyed by this act shall be additional and supplemental to those otherwise granted to any such first class city, and all existing laws or legal restrictions or parts thereof which may be in conflict are hereby repealed insofar as they might otherwise affect the powers of such a city. If any provision of this act shall be held invalid under the Constitution of the Commonwealth of Kentucky or of the United States, the remainder of this act shall not be affected insofar as it can be applied without the invalid portion, for the legislative intent is hereby declared that this act would have been adopted even if such unconstitutional matters had not been included therein.

§ 13. *Time of Taking Effect.* WHEREAS, it may be necessary to take steps toward acquisition of property for the purposes indicated in this bill and other steps may be necessary to be taken before June, 1940, an emergency is hereby declared to exist.

This act shall take effect from and after its passage and aproval by the Governor.

By Mr. Milam.

H. B. No. 356. An Act relating to Revenue and Taxation and repealing and re-enacting Sections 4214a-13, 4214a-15 and 4214a-17, Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4214a-13 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed and re-enacted so that the same, when thus re-enacted, shall read as follows:

Every person engaged or proposing to engage in manufacturing, selling and transporting distilled spirits in this State, for such uses and purposes as may be lawful, shall obtain from the Department of Revenue a permit to engaged in the business or occupation of manufacturing, transporting and selling distilled spirits for said purposes and shall at the time of the issual of said permit, pay to the Commonwealth of Kentucky, in addition to other license taxes provided by law, an excise tax of five cents (5 cents) for each proof gallon of distilled spirits for which said permit is issued, but all permits heretofore issued under the Special Act of the General Assembly of 1933, effective September 26, 1933, shall remain in full force and effect unless otherwise provided by law heretofore passed.

The term 'Distilled Spirits' as used in this section shall not be construed to mean or include industrial alcohol or neutral spirits distilled from grain. The permit required and the excise tax imposed hereby shall not apply to the manufacture, sale and transportation of industrial alcohol or of neutral spirits distilled from grain.

§ 2. That Section 4214a-15 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed and re-enacted so that the same, when thus re-enacted, shall read as follows:

Every person engaged, or proposing to engage in the business or occupation in this Commonwealth of blending, rectifying or mixing distilled spirits, and the sale and transportation of same, for such uses and purposes as may be lawful, shall obtain from the Department of Revenue a per-

mit to blend, rectify or mix distilled spirits and to sell and transport same for said purpose. For the privilege of blending, rectifying or mixing said spirits and selling and transporting same shall in addition to the license tax provided by law pay an excise tax of five cents (5c) for each proof gallon of distilled spirits, blended, rectified or mixed, is hereby imposed; provided, however, that said license fee (five cents) shall not be required to be paid for such distilled spirits used in said blending, rectifying or mixing.

(a) As were heretofore manufactured in this Commonwealth or shall hereafter be manufactured in this Commonwealth, or

(b) Which have borne the tax imposed under Sections 1 or 3 of this Act.

It shall be the duty of any person engaging in the business or occupation of blending, rectifying or mixing distilled spirits, as above set out, to report on or before the 10th day of the succeeding month, in such form and stating such facts as may be prescribed by the Department of Revenue, the amount of distilled spirits, blended, rectified or mixed during the preceding month, and at the time of making said report, pay the said license tax for said privilege as herein provided.

The term 'distilled spirits' as used in this section shall not be construed to mean or include industrial alcohol or neutral spirits distilled from grain. The permit and report required and the tax imposed hereby shall not apply to industrial alcohol or said neutral spirits used for blending, rectifying or mixing purposes, or to the sale and transportation of so much of a blended, rectified or mixed product as is made of industrial alcohol or said neutral spirits.

§ 3. That Section 4214a-17 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is here-

by repealed and re-enacted so that the same, when thus re-enacted, shall read as follows:

Every person who purchases distilled spirits and has same shipped into the Commonwealth of Kentucky from points without the Commonwealth, as provided in Section 4214a-16 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, shall at the time said permit is issued, pay a license tax thereon at the rate of five cents (5c) per proof gallon of such distilled spirits contained in said shipment, provided, however, that with respect to such distilled spirits so shipped into the Commonwealth as are used for blending, rectifying and mixing purposes, such person so using same shall not be required to pay the tax for the privilege of blending, rectifying or mixing as is provided for in Section 2 of this Act, to the extent such distilled spirits so brought into the Commonwealth is used for blending, rectifying and mixing purposes.

The term 'distilled spirits' as used in this section shall not be construed to mean or include industrial alcohol or neutral spirits distilled from grain. The tax imposed hereby shall not apply to any shipment into the Commonwealth of Kentucky from points without the Commonwealth, as provided for in this section and in Section 4214a-16, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and no permit shall be required for the shipment into the Commonwealth from points without the Commonwealth.

§ 4. All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Lee.

H. B. No. 357. An Act relating to fish, consolidating section 1893d-9 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 157 of the Acts of 1938, with section 43 of Chapter 107 of the Acts of 1938, compiled as section

1954d-43 of Baldwin's Kentucky Statute Service, May, 1938, amending the consolidated section and renumbering it as section 1954d-43.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1893d-9 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 157 of the Acts of 1938, and section 43 of Chapter 107 of the Acts of 1938, compiled as section 1954d-43 of Baldwin's Kentucky Statute Service, May, 1938, are consolidated, amended and renumbered to read and be numbered as follows:

1954d-43. Limitations on number and size of fish taken or in possession. (1) No person shall take in any one day more than:

10 black bass
10 trout
15 rock bass or "goggle-eye"
15 crappie
8 white salmon
8 jack salmon or wall-eyed pike
15 striped bass

(2) No person, unless he has fished two consecutive days or longer, shall have in possession in one day more than:

10 black bass
10 trout
15 rock bass or "goggle-eye"
15 crappie
15 white salmon
15 jack salmon or wall-eyed pike
15 striped bass

(3) No person who has fished two consecutive days or longer, shall have in possession more than:

20 black bass
20 trout
30 rock bass or "goggle-eye"
30 crappie
16 white salmon
16 jack salmon or wall-eyed pike
30 striped bass

(4) No person shall take or have in possession any fish shorter than the following:

Black bass	11 inches
Trout	11 inches
Crappie	8 inches
White salmon	14 inches
Jack salmon or wall-eyed pike	14 inches

By Mr. King.

H. B. No. 358. An Act relating to employment of State officers and employees and providing qualifications for same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any persons who shall hold any office or employment in this Commonwealth for which compensation or renumeration is paid, either in whole or in part, from funds collected or expended by the Commonwealth, shall have been a bona wide resident of the Commonwealth of Kentucky for a period of at least five (5) years next before receiving such compensation or remuneration from the Commonwealth.

The provisions of this act shall not apply to the University of Kentucky and its agencies, the State Teachers

Colleges, the Kentucky State College for Negroes and the Statutes Revision Committee.

By Mr. Barry.

H. B. No. 359. An Act creating an Electrical Administrative Board of the Commonwealth of Kentucky and prescribing its authority and duties; establishing standards for electrical equipment and for its installation; providing for electrical inspection; providing for the appointment of a Chief Inspector and deputy inspectors and prescribing their duties; providing that it shall be unlawful to install electrical equipment without a permit; providing that the provisions of this Act shall not be effective in cities of the first class; providing a penalty for the violation of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Application of the Provisions of this Act.—The provisions of this Act shall apply to all installations of electrical materials, appliances, and apparatus hereafter referred to as electrical equipment, within or on public and private buildings and premises, with the exceptions as provided in Section 6 and Section 10 of this Act, and with the following general exceptions:

(1) The provisions of this Act shall not apply to installations of electrical equipment in mines, ships or railway cars or to automotive equipment:

(2) The provisions of this Act shall not apply to installations used by electric supply or communication agencies in the generation, transmission or distribution of electricity, or for the operation of signals or the transmission of intelligence, and located within or on buildings or premises used exclusively by such agency, or on public thoroughfares;

(3) The provisions of this Act shall, however, apply to electrical equipment used for radio transmission in amateur radio transmitting stations and shall apply to all electrical equipment used for power supply to radio transmitting equipment, but shall not apply to other electrical equipment used for radio transmission.

§ 2. Electrical Administrative Board Created.—There is hereby created the Electrical Administrative Board, hereafter designated as the Board, which shall consist of six members. The Commissioner of Insurance by virtue of his office shall be a member of the Board. The Commissioner may, however, designate one of his assistants in his place. The other five members shall be appointed by the Governor as follows: One resident representative of an Electrical Cooperative Corporation; One resident representative of an electrical public service corporation, operating in this State; One resident representative of a person, firm, or corporation engaged in the business of installing electrical equipment in this State; One person who is, or has been for a period of two (2) years an electrical inspector of a city of this State; and One member of the Faculty of the Agriculture College of the University of Kentucky to be designated by the Dean of said College.

Of the five members first appointed, one shall be appointed for a term of one (1) year, one shall be appointed for a term of two (2) years; one shall be appointed for a term of three (3) years, and two shall be appointed for a term of four (4) years, and thereafter each appointment shall be for a term of four (4) years, or until a successor is appointed and qualified.

The Governor shall appoint one of the members to act as chairman of the Board. Any appointed member may, for cause and after a hearing, be removed from office by the Governor. Each appointed member of the Board shall serve

without compensation or traveling expenses for services rendered.

§ 3. Duties and Authority of Electrical Administrative Board. The Board shall hold regular meetings at least quarterly and may hold special meetings at the call of the chairman. It shall be the duty of the Board to administer and enforce the provisions of this Act; to appoint a Chief Inspector and to employ deputy electrical inspectors and other necessary personnel; to adopt and issue the necessary orders, rules and regulations for the enforcement of the provisions of this Act; to examine persons who apply for positions as deputy electrical inspectors. The Board may delegate to the Chief Inspector of the Board the power and authority to conduct the examinations of applicants who apply for positions as deputy electrical inspectors.

Four members of the Board present at any meeting shall constitute a quorum for the transaction of business, but any action taken at any meeting shall require the affirmative vote of at least four members.

All orders, rules, and regulations shall be printed and shall be distributed to all electrical inspectors and shall take effect on a date to be fixed by the Board, which shall not be less than thirty (30) days after the orders, rules and regulations have been mailed to all the electrical inspectors. Said orders, rules, and regulations shall also be available in pamplet form for general distribution.

§ 4. Electrical Engineer; Qualification; Appointment; Duties.—The Board shall appoint a registered professional electrical or mechanical engineer of the State of Kentucky, who shall be the Chief Inspector. The Chief Inspector shall file with the Board a bond running to the State of Kentucky, in the amount of Ten Thousand Dollars ($10,000), said bond to be approved by the Board and conditioned upon the faithful performance of his duties.

He shall be removed from office for cause only after a full hearing by the Board, at which he shall be entitled to appear and produce evidence in his behalf.

It shall be the duty of the Chief Inspector to act as Secretary of the Board, and under the direction of the Board to administer and enforce the provisions of this Act and all orders, rules, and regulations issued by the Board, and to supervise the work of all deputy inspectors and to perform such other duties as are assigned to him by the provisions of this Act or delegated to him by the Board.

§ 5. Standards for the Installations of Electrical Equipment.—It shall be the duty of the Board to require that all electrical equipment when installed for the purpose of being connected to a source of electrical energy to be sufficiently insulated, supported and protected in such a manner as to be reasonably free from hazards to life and property, which are caused by overloading, short-circuiting, and improper protection of electrical equipment. The Board shall adopt the National Electrical Code and the National Electrical Safety Code, as approved by the American Standards Association, as a part of its rules and regulations; provided, however, an electrical inspector of the Board may with the approval of the Chief Inspector or the Board, permit trial installations of new methods. Installations of electrical equipment in conformity with the provisions of the National Electrical Code and the National Electrical Safety Code, as approved by the American Standards Association, shall be prima facie evidence of compliance with the provisions of this Act.

§ 6. Standards for Electrical Equipment.—Except as otherwise provided in Section 1, all electrical equipment installed or used shall be in conformity with the provisions of this Act and the rules and regulations of the Board prescribing the approved electrical standards for safety to persons and property. Unless a provision of this Act or a valid

regulation of the Board specifically disapproves a particular type or class of electrical equipment for installation and use, compliance with the standards prescribed by Underwriter's Laboratories, Incorporated, as approved by the American Standards Association, shall be prima facie evidence of compliance with the provisions of this Act. Provided, however, that the provisions of this section shall not apply to equipment owned and used by an electricity supply or communication agency in the generation, transmission or distribution of electricity or for the operation of signals or the transmission of intelligence; and further provided, however, that electrical inspectors of the Board may, with the approval of the Chief Inspector or the Board permit trial installations of any new electrical equipment.

§ 7. Appointment of Deputy State Electrical Inspectors. The Board may appoint any person who is qualified under the provisions of this Act to the position of deputy state electrical inspector. All deputy state electrical inspectors shall make inspections of all electrical equipment in any manner or territory specified by the Chief Inspector or the Board, and shall enforce all the provisions of this Act. In the performance of such duties, every deputy state electrical inspector shall work under the direction of and shall report to the Chief Inspector of the Board. It shall be unlawful for any deputy state electrical inspector to engage in the business of the sale, installation or maintenance of electrical equipment, either directly or indirectly, and he shall have no financial interest in any concern engaged in such business. All deputy state electrical inspectors shall be required to execute a bond, running to the State of Kentucky for the faithful performance of his duties, and the prompt remittance of all moneys and funds he collects as fees of the Board. Said bond shall be in the sum of Five Hundred Dollars ($500), and shall be approved by the Board.

§ 8. Authority of Chief Inspector and Deputy Inspectors.—The Chief Inspector of the Board and every deputy inspector shall have the right during reasonable hours to enter any building or premise in the discharge of his official duties or for the purpose of making any inspection, re-inspection, or test of the electrical equipment contained therein or its installation. When any electrical equipment shall be found to have been installed in violation of the provisions of this Act and is dangerous to persons and/or property, because it is defective or has been defectively installed, the person, firm, or corporation responsible for the electrical equipment shall be notified in writing and shall make all changes or repairs as required in the judgment of the Chief Inspector or the deputy inspector, which are necessary to place such equipment in a safe condition, and if such work is not completed within fifteen days or any longer period that may be specified by the Chief Inspector or deputy inspector in said notice, the Chief Inspector or the deputy inspector shall have the authority to disconnect or issue a written order with a copy to the owner or authorized agent for the discontinuance of electrical current to said defective electrical equipment. In cases of emergency, where necessary for safety to persons or property, or where electrical equipment may interfere with the work of the fire department, the Chief Inspector and/or any deputy inspector shall have the authority to immediately disconnect or cause the disconnection of any electrical equipment.

§ 9. Permits.—No electrical equipment shall be installed within or on any building, structure, or premise, publicly or privately owned, nor shall any alteration or addition be made in any such existing electrical equipment without first securing a permit therefor from the deputy inspector or Chief Inspector, except as provided in Section 1, and except that no permit will be required to execute any of the classes of electrical work or install any electrical equipment specified in the following:

(1) The replacement of lamps or the connection of portable electrical equipment to suitable permanently installed receptacles;

(2) The installation, alteration or repair of electrical equipment for the operation of signals or the transmission of intelligence by wire;

(3) The installation, alteration or repair of electrical equipment installed by or for an electricity supply or communication agency for the use of such agency in the generation, transmission, distribution, or metering of electricity.

(4) Any work involved in the manufacturing of electrical equipment or apparatus except that this exemption shall not include the installation of any permanent wiring other than that required for testing purposes.

(5) These exemptions and exceptions do not apply to major appliances such as electrical cooking ranges and major heating apparatus or appliances.

Application for such permit, describing the work to be done, shall be made in writing to the electrical inspector by the person, firm, or corporation installing the work. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether the installation as described will be in compliance with the requirements of the provisions of this Act and all the valid rules and regulations of the Board.

If it shall be found that the installation as described complies with all the provisions of this Act and all the rules and regulations of the Board, a permit for such installation shall be issued. No deviation may be made from the installation described in the permit without the written approval of the Chief Inspector.

§ 10. Inspection and Certificates of Approval.—Upon the completion of any installation of electrical equipment which has been made under a permit, it shall be the duty of the person, firm, or corporation making the installation to notify the deputy inspector, or the Chief Inspector, who shall

inspect the work within a reasonable time. Where the inspector finds the installation to be in compliance with the provisions of this Act and all rules and regulations of the Board, he shall issue to the person, firm or corporation making the installation a certificate of approval, with a duplicate copy for delivery to the owner, authorizing the use of the equipment and connection to a source of electric energy, and shall send written notice of such authorization to the agency supplying the electric energy.

When a certificate of approval is authorizing the use and connection of a temporary installation, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the Chief Inspector or deputy inspector for cause.

When any electrical equipment subject to inspection is to be hidden from view by the permanent placement of parts of the building, the person, firm, or corporation installing the equipment shall notify the deputy or Chief Inspector and such equipment shall not be concealed until it has been inspected and approved by the inspector. Provided, that on large installations where the concealment of equipment proceeds continuously, the person, firm or corporation installing the equipment shall give the electrical inspector due notice in advance and inspection shall be made periodically during the progress of the work.

At the time of making the inspection, the deputy electrical inspector or the Chief Inspector shall issue a certificate of approval for such work as is found to be in compliance with the provisions of this Act and all applicable rules and regulations of the Board after the payment of required fees.

If, upon inspection, any installation is not found to be sufficiently in conformity with this Act and all applicable rules and regulations of the Board, the electrical inspector making the inspection shall at once forward to the person,

firm or corporation making the installation a written notice stating the defects which have been found to exist.

Every deputy state electrical inspector shall, at least once each month, make a report to the Board of all fees collected, inspections made, and certificates of approval issued by him, during the preceding month.

§ 11. Connection to Installations.—Except where work is done under a permit and except as otherwise provided in this Act, it shall be unlawful for any person, firm, or corporation to make connection from a supply of electric energy or to supply electric energy to any electrical equipment for the installation of which a permit is required or which has been disconnected or ordered to be disconnected by the electrical inspector without the authorization of a deputy inspector or the Chief Inspector. If within three (3) days, Sundays and holidays excepted, after the inspector is notified of the completion of installation of electrical equipment, he has neither authorized the connection or disapproved the installation the supplying agency is authorized to make connections and supply electricity to such installed electrical equipment upon receipt of a written statement obtained by the owner from the person, firm, or corporation installing the electrical equipment, declaring that the installation is in conformity with the provisions of this Act, and a certified copy of said statement has been forwarded to the Board by the owner or person installing the electrical equipment. If it shall be found that any declaration made in such statement is contrary to the facts, the Board shall require the person, firm, or corporation making the statement to rectify the defects in said electrical equipment so installed within five (5) days after receipt of written notice thereof from the deputy or Chief Inspector.

§ 12. Qualification of Deputy Electrical Inspectors.—In order to obtain a position as a deputy electrical inspector, an applicant shall be of good moral character, shall be possessed of such executive ability as is requisite for the

performance of his duties, and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property and the Statutes of Kentucky relating to electrical work and the provisions of the National Electrical Code and the National Electrical Safety Code as approved by the American Standards Association, and the rules and regulations of the Board; and shall have had at least five (5) years experience as an electrician or in the installation of electrical equipment, or in lieu of such experience shall be a graduate of an electrical or mechanical engineering college or university considered by the Board as having suitable requirements for graduation, and shall have had at least two (2) years of practical electrical experience; and shall have passed an examination given by the Board, or if authorized by the Board, by the Chief Inspector.

Examinations shall be in writing or be a practical inspection, and a complete record of every examination given shall be kept on file until three (3) years after the time of the examination. Each application for a position as deputy electrical inspector shall be made in writing to the Board, stating the applicant's name and address, and such other information as the Board may request.

§ 13. Records of the Board.—Records of meetings of the Board shall be open to the public for inspection at all times, and shall be in charge of the Chief Inspector.

§ 14. Removal and Suspension of Inspectors.—Any deputy inspector may, after a hearing, be suspended or removed from duty by the Board if he fails to perform his duties properly as an inspector in conformity with the provisions of this Act.

§ 15. Collection and Disposition of Fees.—The board, through its Chief and deputy inspectors, shall be authorized and empowered to collect inspection fees as follows:

For inspecting one circuit of rough branch circuit wiring, a fee of not less than $1.00 nor more than $3.00;

For inspecting two of said circuits, a fee of not less than $2.00 nor more than $4.00; and

For each additional circuit in excess of two, a fee of not less than 25c nor more than 75c;

For the inspection of fixture work, a fee of not less than $1.00 nor more than $3.00 for the first twenty (20) sockets or less, and

For each additional socket over twenty (20), a fee of not less than 5c nor more than 15c.

For the inspection of motors and generators, which shall include the inspection of the feeders, a fee of not less than $2.00 nor more than $4.00 shall be charged for the first machine inspected at the time of making the inspection. If at the time of making the inspection, there are other machines ready for inspection, a fee of not less than 25c nor more than 75c shall be charged for each additional machine;

For inspection of each panel of switchboards, a fee of not less than $1.00 nor more than $3.00 shall be collected;

An inspection fee of not less than $1.00 nor more than $3.00 shall be collected for the inspection of all electric ranges, or water heaters installed;

An inspection fee of not less than $1.00 nor more than $3.00 shall be collected for the inspection of all electric signs containing fifty (50) lamps or five (5) kilovolt-amperes or less;

An inspection fee of not less than 25c nor more than 50c for each additional twenty (20) lamps or two (2) kilovolt-amperes or part thereof, shall be collected in addition to the regular fee for electric signs;

A fee of not less than $1.00 nor more than $4.00 shall be collected for the inspection of each electrically operated oil burner, stoker, or refrigerator. No inspection shall be required or fees collected for the installation of a regular plug-in domestic refrigerator.

In the event the equipment installed does not comply with the provisions of this Act and the rules and regulations of the Board and it is not approved at the time of inspection, any additional inspection shall be governed by the fees set forth in this Act.

In each instance, however, the inspection fees for any particular or specified item shall be uniform throughout the State.

§ 16. The Application Fee for Inspection Shall Accompany the Application.—The Board or any of its agents or employees shall not be permitted to accept any fee other than a certified check, money order, or cash. The deputy inspectors shall, at the time of making the monthly reports referred to in this Act, remit all fees collected. The Chief Inspector shall remit all fees collected by him or remitted to him by the deputy inspectors to the Treasurer of the Commonwealth of Kentucky at least once every thirty days and receive his receipt therefor. The Treasurer shall place the fees in a revolving fund account, and withdrawals shall only be permitted for the expenses of the Board and the salaries and expenses of its appointees and employees necessary in the administration and enforcement of the provisions of this Act. Said withdrawals shall be made by vouchers signed by the Secretary of the Division of Professional Regulation and the Chief Inspector. Said vouchers and withdrawals shall conform to the regulations of the Department of Finance.

§ 17. Appeals from Orders of Inspectors.—Any person, firm or corporation who has received an order from a deputy inspector approving, disapproving, or ordering a discontinuance of service of any electrical equipment, may within twenty (20) days after the issuance of said order appeal to the Chief Inspector. The Chief Inspector, after a proper investigation of the matter, shall be authorized to modify, overrule, or sustain the order of the deputy inspector. Any person, firm, or corporation, having an interest therein may appeal from the order of the Chief Inspector

to the full Board, at any of its regular or called meetings. The Board shall be authorized to modify, reverse, or sustain the order of the Chief Inspector. Any person, firm, or corporation having an interest therein may within (20) days from the effective date of the order of said Board appeal to the Franklin Circuit Court by filing a certified copy of the order of said Board with the clerk of said Court, posting a bond satisfactory to the clerk for the payment of costs. The clerk of the Franklin Circuit Court shall issue summons to the Board or to the Chief Inspector at its office, and the case shall be placed on the Equity Docket. The order of the Board as to the matters of fact shall be conclusive.

§ 18. Each person, firm, and/or corporation who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifteen Dollars ($15.00) nor more than One Hundred Fifty Dollars ($150.00), or by imprisonment for not less than five (5) nor more than thirty (30) days for each offense, or both such fine and imprisonment, within the discretion of the jury or court trying the case.

§ 19. Liability for Damages.—This Act shall not be construed to relieve from or lessen the responsibility or liability for any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the State of Kentucky be held as assuming any such liability by reason of inspection, re-inspection, or other examination authorized herein, or by reason of the certificate of approval issued as herein provided.

§ 20. No person, firm, or corporation engaged in the business of installing electrical equipment wthin the Commonwealth of Kentucky shall bring or maintain any action in the courts of this Commonwealth for the collection of compensation for any services performed as an electrician, electrical contractor, and electrical engineer without alleging and proving that such person, firm, or corporation, made applica-

tion to the Board for an inspection of the electrical equipment, the installation of which is the subject matter of the action, and that an inspector of the Board issued a certificate of approval to the effect that such electrical equipment was installed in accordance with the provisions of this Act.

§ 21. Professional Regulation.—Nothing in this Act shall be construed to repeal or in any way effect the provisions of the 1936 Governmental Re-Organization Act which was enacted at the First Extraordinary Session of the General Assembly of 1936, and became effective March 7, 1936, and further provided that section 8, Article 16, Chapter 1, which is section 4618-120 of Carroll's Kentucky Statutes shall apply, and that said Board shall be under the supervision of the Commissioner of Business Regulations and the Secretary of the Division of Professional Regulation.

§ 22. If any section, sub-section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature of the Commonwealth of Kentucky hereby declares that it would have passed this Act and each section, sub-section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

§ 23. Exemption.—No provision of this Act shall affect in any manner, apply to, or be effective in cities of the first class in the Commonwealth of Kentucky.

By Mr. Vansant.

H. Res. 67. A JOINT RESOLUTION authorizing Charley Curnutte to sue the Commonwealth of Kentucky or the State Highway Commissioner, or either or both of them.

Said resolution is as follows, viz.:

WHEREAS, on June 29, 1939, Charley Curnutte, while operating a truck upon the Blaine-Sandy Hook road, known as State Road No. 32, and about two and one-half miles south of the town of Blaine, in Lawrence County, Kentucky, at or near what is known as Knob Branch, and after giving a signal of his intention to stop he pulled his truck over to the right side of the road and did stop, and was struck while standing still by a State Highway truck, driven by one Carl Manley.

WHEREAS, at the time of said accident, Mr. Carl Manley was an employee of the State Highway Department and, while acting in the scope of his employment and upon the duties of the State Highway Department, negligently and carelessly caused the State Highway Department truck to run into and collide with the truck of Charley Curnutte, causing Charley Curnutte to be injured, from which injuries he was compelled to have medical treatment and suffered great pain and is yet receiving medical attention and treatment for the injuries received in the collision which was caused by the gross negligence and carelessness of Carl Manley, said employee of the State Highway Department.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Charley Curnutte be and is hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commissioner, both or either of them, in the Circuit Court of Lawrence County, Kentucky, for such damages he suffered by reason of personal injury and property damage brought about by the carelessness and negligence of the State Highway Commissioner, its agents or employees. That said suit shall be for an amount not to exceed the sum of $5,000 and, in the event that judgment is recovered by Charley Curnutte in said suit for said personal injuries and property damages, or the same is compromised or settled, the same shall be paid by the Auditor of Public

Accounts by warrant drawn on the State Treasurer and paid out of the General Fund. Either party to said suit may appeal from said sum, which may be handled as any other civil suit, and the case may be settled, compromised or adjusted with the consideration and approval of the Attorney General of Kentucky in the same way or manner as any other civil suit.

By Mr. Ennis.

H. Res. 68. RESOLUTION authorizing Ada Long, by her statutory guardian or next friend, and Ernest Long, as next friend of said Ada Long, and also in behalf of himself as father of Ada Long, jointly, or either of them, to sue the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky, jointly, or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about October 23rd, 1939, Ada Long, then an infant of seven years, able bodied, and resident in Warren County, Kentucky, while being transported to the Quarry Union School in Warren County, Kentucky, in a school bus operated by the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky, through their agent and employee, and while leaving said bus at said school house, was violently thrown from the rear of said bus by the negligent operation of the bus, said bus then and there being operated by the agent and employee of the Board of Education, of Warren County, Kentucky, and the Commonwealth of Kentucky, and the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky were then and there acting through their agent and employee in the usual and customary performance of his official duties as such, and

WHEREAS, the said Ada Long, as the direct and proximate result of the acts and events aforesaid, at the time and place aforesaid, received injuries to the bones of her left leg

and ankle, which became infected in the direct course of the injury, and through no fault of her own, thus possibly having to go through life a cripple, and was seriously, painfully, and possibly permanently injured at the time and place and in the manner above stated so as to incapacitate her from the performance of work and duties she had customarily done before the said injuries, and as a result of said injuries, the said Ada Long's power to earn money has been permanently injured, and

WHEREAS, Ernest Long is the father of the said Ada Long, and

WHEREAS, the said Ernest Long has been and will be forced to expend in behalf of the said Ada Long for surgical operations, physicians' bills, and hospitals and medical expenses approximately $300.00, and

WHEREAS, by the direct and proximate result of the negligence of the agent and employee of the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky the said Ada Long has been damaged in the amount of $10,000.00, and

WHEREAS, the injuries of the said Ada Long were caused and produced by the carelessness and negligence of the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky, then and there acting through their agent and employee then and there in the performance of his duties as such, while the said Ada Long was free of any negligence whatever which attributed to, or in any way brought about her said injuries, and

WHEREAS, said Ada Long has no means of support except from said Ernest Long, and he is a tenant farmer with no income except from crops produced by his labor; and services and articles other than the ordinary necessities of life, and beyond the reach of persons of such meager means, will be necessary to the sustenance of said Ada Long in the immediate future, Now, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the said Ada Long, by her statutory guardian or next friend, and the said Ernest Long, as her next friend, and also in his behalf as her father, jointly, or either of them, be and hereby are authorized to sue the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky jointly, or either of them in the Circuit Court held in and for Warren County in the Commonwealth of Kentucky.

Said suit of the said Ada Long and Ernest Long, or either of them, shall be for an amount not exceeding $10,300.00, and in the event any judgment is recovered by the said Ada Long or Ernest Long or either of them, for damages, or in the event said suit is compromised or settled, the amount of said judgment, compromise or settlement, shall be paid by the Auditor of Public Accounts of the Commonwealth of Kentucky by a warrant or warrants drawn on the Treasury of the Commonwealth of Kentucky, and payable out of the general fund.

§ 2. Any party in the suit proposed may appeal from any judgment which may be rendered in the Warren Circuit Court as in any other civil suit, and the said suit may be settled and adjusted or compromised, should the Board of Education of Warren County, Kentucky, and the Commonwealth of Kentucky so decide, with the consent and approval of the Attorney General of the Commonwealth of Kentucky, in the same manner as in any other civil suit.

§ 3. An emergency is hereby declared, and this resolution will be effective upon its passage and approval by the Governor.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions heretofore introduced or reported by the Senate, as follows, viz.:

H. B. 320. To Committee on Banks and Banking.

H. B. 321. To Committee on Revenue and Taxation and No. 1.

H. B. 322. To Committee on Kentucky Statutes No. 1.

H. B. 324. To Committee on Banks and Banking.

H. B. 325. To Committee on Banks and Banking.

H. B. 326. To Committee on Alcoholic and Liquor Control No. 1.

H. B. 327. To Committee on Alcoholic and Liquor Control No. 1.

H. B. 328. To Committee on Public Health No. 1.

H. B. 329. To Committee on Revenue and Taxation No. 1.

H. B. 330. To Committee on Revenue and Taxation No. 1.

H. B. 331. To Committee on Education No. 1-A.

H. B. 332. To Committee on Municipalities.

H. B. 333. To Committee on Municipalities.

H. B. 334. To Committee on Municipalities.

H. B. 335. To Committee on Motor Transportation.

H. B. 347. To Committee on Fish and Game No. 1-A.

H. B. 349. To Committee on Revenue and Taxation No. 1.

S. B. 14. To Committee on Judiciary.

S. B. 15. To Committee on Kentucky Statutes No. 1.

S. B. 20. To Committee on Kentucky Statutes No. 1.

S. B. 65. To Committee on Library and Historical Records.

H. Res. 50. To Committee on Claims.

H. Res. 51. To Committee on Claims.

H. Res. 52. To Committee on Appropriations No. 1.

H. Res. 53. To Committee on Claims.

H. Res. 54. To Committee on Claims.

Mr. Shaikun moved that the privilege of the floor be extended to Mr. George B. Barrett.

Said motion was agreed to.

Mr. Milam moved that the privilege of the floor be extended to Mr. and Mrs. H. A. Richardson of Danville, Kentucky.

Said motion was agreed to.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Beard of the Committee on Fish and Game No. 1.

H. B. 319. An Act relating to Game and Fish and providing the method, manner and time of taking wild animals, wild birds and fish;

With committee amendments thereto.

By Mr. Shaikun of the Committee on Cities of the First Class.

H. B. 258. An Act conferring upon the city and county air board in counties containing a city of the first class, and all cities of the second and third class, the power to promulgate and enforce airport zoning regulations, etc.

By Mr. Joe E. Robinson of the Committee on Agriculture No. 1.

S. B. 24. An Act prohibiting the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk, cream, etc.

By Mr. Vansant of the Committee on County and City Courts.

S. B. 46. An Act to repeal, amend and re-enact Chapter 61 of the Acts of the General Assembly of 1939, being Sec. 1050 of Carroll's 1938 Supplement etc.

By Mr. Shehan of the Committee on Judiciary.

H. B. 296. An Act providing for the regulation of lawful coin or token operated vending machines or devices and all other lawful coin or token operated machines etc.

With a Committee amendment thereto.

H. B. 271. An Act relating to garnishment on judgments in personam.

H. B. 275. An Act to simplify and modernize divorce procedure and to relieve against inequalities in the application thereof etc.

H. B. 200. An Act to amend section 216aa-7 of Carroll's Kentucky Statutes, 1936 Edition, and providing for the arrest of dangerous insane and feeble-minded persons.

H. B. 228. An Act defining "safety glass" and providing for its use in busses.

H. B. 257. An Act to regulate the use of highways by motor vehicles carrying other vehicles and providing a penalty for violations thereof.

By Mr. Howard of the Committee on Revenue and Taxation No. 1-A.

H. B. 173. An Act relating to the construction, extension, or improvement of sewers, disposal plants, and other necessary appurtenances, etc.

H. B. 348. An Act providing for the election of county school Superintendents; fixing their qualifications compensation and term of office; etc.

With the expression of opinion that said bills ought to pass.

Said last above named bill having a minority report.

Said report of the Minority is as follows, viz.:

The Committee on County and City Courts to which the same had been referred, has had under consideration H. B. 348 and report same with the expression of opinion that the same should not pass.

Harry F. Walters
Joe B. Jarboe, Jr.

Mr. King moved that the report of the Minority be substituted for the report of the Committee.

Said motion was disagreed to.

Said bills were then each and severally read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

S. B. 108. An Act to amend Sec. 2925 of Article 19, Chapter 89 of the Acts of the General Assembly of 1902, relating to the appointment, powers and compensation of a pro tem Judge of the Police Court in cities of the first class, etc.

S. B. 53. An Act to amend sec. 429 of the Criminal Code of Practice, and to provide for appeals from judgments upon trials under writs of habeas corpus.

H. B. 276. An Act to amend the Alcoholic Control Law of 1938.

H. B. 327. An Act to create exporter's license and providing for the sale and export of distilled spirits and wine.

H. B. 284. An Act relating to alcoholic beverages, repealing, amending, and re-enacting Sec. 17 of Chapter 2 of the Acts of the General Assembly of 1938.

With a Committee amendment thereto.

H. B. 59. An Act amending and re-enacting Sec. 2554b-164 of Baldwin's Kentucky Statute Service supplement to Carroll's Official Kentucky Statutes of 1936, relating to the regulation of advertising by persons licensed by the State Alcoholic Board.

H. B. 237. An Act to repeal, amend and re-enact Sec. 55½ of Chapter 2 of the Acts of the General Assembly at its 1938 Regular Session, relating to cash sales of alcoholic beverages or distilled spirits.

H. B. 251. An Act relating to unemployment compensation.

With Committee amendments thereto.

H. Res. 23. Resolution appropriating from the General Fund of the State of Kentucky $110.60 to pay a claim for services rendered by Cecil Pennington in performance of his duties as sheriff of Elliott county.

H. B. 153. An Act to amend Sections 2, 10 and 19 of Chapter 105 of the Acts of 1938, compiled as sections 4767a-1, 4767a-8 and 4767a-17 of Baldwin's Kentucky Statute Service, May 1938, relating to wages of women and minors.

H. Res. 60. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and the sum of $750.00 for a contingent fund for the Clerk of the House.

H. Res. 61. Resolution providing for the purchase of the "Legislative Digest"

Ordered that said bills and resolutions be read the second time.

The Constitutional provision as to the second reading of said bills and resolutions at length being dispensed with, said bills and resolutions were read the second time by their titles only.

Order that said bills and resolutions be placed in the Orders of the Day.

Mr. Hammons moved that House Resolutions Nos. 7, 8, 9, 10, 11 and 12 which were reported by the Committee on Claims with amendments thereto on February 6, be recommitted to said Committee on Claims for the purpose enabling the Committee to hold hearings on said resolutions.

Said motion was agreed to.

The hour of eleven o'clock having arrived, that being the hour for the Special Order of the Day, to-wit: a bill entitled:

H. B. 238. An Act to repeal, amend and re-enact Kentucky Statutes, relating to the filling of milk bottles, etc.

The House took up for consideration said bill.

Mr. Robinson moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Robinson moved that the House do now recess until one-fifteen o'clock P.M.

Said motion was agreed to.

And then the House recessed.

The hour of one-fifteen o'clock P.M. having arrived, the Speaker resumed the Chair and called the House to order.

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 120. An Act to provide for the purchase of liability and indemnity insurance against negligence of school bus drivers, and authorizing school boards to purchase same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each board of education shall have power and authority to set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school busses owned or operated by the board. The indemnity bond or insurance policy shall be issued by some surety or insurance company or other insurance carrier duly authorized to transact business as such within this Commonwealth, and shall bind the surety, insurance company, or insurance carrier to pay any final judgment or judgments rendered against the insured or policy holder arising out of the death or injury to any school child or school children, for loss or damage to property of any such school children, or death or injury to any person or persons.

§ 2. If the transportation of pupils be let out under contract, then such contract shall provide that the contractor shall carry indemnity or liability insurance against negligence in such an amount as the board of education may require and designate, said indemnity bond or insurance to be

provided by a duly authorized surety or insurance company or other insurance carrier as set out in the foregoing paragraph.

§ 3. Whereas there is a vital need to properly protect the school children of the state in going to and returning from school, it is necessary that this legislation be effective immediately, and an emergency is hereby declared to exist and this bill will become law immediately upon its passage and approval by the Governor.

Ordered that said bill be printed and referred.

Mr. Hunnicutt moved that today's session be extended indefinitely.

Said motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Bronston of the Committee on Municipalities.

H. B. 332. An Act providing the method of recording mortgages executed by corporations authorized to operate railroads, etc.

H. B. 334. An Act to amend and re-enact Sec. 883b-3 of the Kentucky Statutes, Carroll's Edition 1938.

H. B. 333. An Act authorizing corporations to borrow money and to execute mortgages to secure the money so borrowed etc.

By Mr. Hunnicutt of the Committee on Banks and Banking.

H. B. 324. An Act amending Sections 1, 2, 3, 4, 5, 6, 7, 9, 10 etc. Carroll's Kentucky Statutes, relating to the establishment and operation of credit unions in the Commonwealth of Kentucky.

H. B. 325. An Act relating to the sale and transfer of wages, amending and re-enacting Sec. 4758a-5 of Carroll's Kentucky Statutes, 1936 Edition.

By Mr. Brown of the Committee on Judicial Council.

S. B. 18. An Act to amend and re-enact, as amended, Sec. 110 Carroll's Kentucky Statutes, Baldwin's 1936 Revised edition, relative to certain officers who are not permitted to practice law.

By Mr. Woods of the Committee on Insurance, Life and Casualty.

H. B. 278. An Act to provide for the purchase of liability and indemnity insurance against negligence of school bus drivers, and authorizing school boards to purchase same.

By Mr. J. Lee Moore of the Committee on Appropriations No. 1.

H. Res. 5. Resolution providing for furnishing Kentucky Directory.

With a Committee Amendment thereto by way of Substitute therefor.

With the expression of opinion that said bills and resolution ought to pass.

Said bills and resolution were each and severally read at length the first time and ordered to be placed on the Calendar.

The Hour of two o'clock P.M. having arrived, that being the hour for the Special Order of the Day, to-wit: a bill entitled:

H. B. 139. An Act to promote the public welfare by providing aid for dependent children.

Mr. Hunnicutt moved that the House defer consideration of said bill until the hour of two–twenty-five o'clock P. M.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 172. AN ACT approving, ratifying and enacting into law the Ohio River Valley Water Sanitation Compact for the prevention, abatement and control of pollution of the rivers, streams and waters in the Ohio River drainage basin and making the Commonwealth of Kentucky a party thereto; creating the Ohio River Valley Water Sanitation Commission; providing for the members of such Commission from the Commonwealth of Kentucky; and providing for the carrying out of said Compact.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The following Ohio River Valley Water Sanitation Compact, which has been negotiated by representatives of the States of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia, is hereby approved, ratified, adopted, enacted into law, and entered into by the Commonwealth of Kentucky as a party thereto and signatory state, namely:

OHIO RIVER VALLEY WATER SANITATION COMPACT

Between the States of
Illinois, Indiana, Kentucky, New York,
Ohio, Pennsylvania, Tennessee and West Virginia

Pursuant to authority granted by an Act of the 74th Congress of the United States Public Resolution 104, approved June 8, 1936, conferences of delegates appointed to draft the compact were held at Cincinnati, Ohio, on November 20, 1936; Jan. 17, 1938; May 24, 1938; June 13, 1938; October 11, 1938.

WHEREAS, A substantial part of the territory of each of the signatory states is situated within the drainage basin of the Ohio River; and

WHEREAS, The rapid increase in the population of the various metropolitan areas situated within the Ohio drainage basin, and the growth in industrial activity within that area, have resulted in recent years in an increasingly serious pollution of the waters and streams within the said drainage basin, constituting a grave menace to the health, welfare and recreational facilities of the people living in such basin, and occasioning great economic loss; and

WHEREAS, The control of future pollution and the abatement of existing pollution in the waters of said basin are of prime importance to the people thereof, and can best be accomplished through the cooperation of the States situated therein, by and through a joint or common agency;

NOW, Therefore, The States of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia do hereby covenant and agree as follows:

ARTICLE I

Each of the signatory States pledge to each of the other signatory States faithful cooperation in the control of future pollution in and abatement of existing pollution from the rivers, streams and waters in the Ohio River basin which flow through, into or border upon any of such signatory States, and in order to effect such object, agrees to enact any necessary legislation to enable each such State to place and maintain the waters of said basin in a satisfactory sanitary condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits, and adaptable to such other uses as may be legitimate.

ARTICLE II

The signatory States hereby create a district to be known as the "Ohio River Valley Water Sanitation District," hereinafter called the District, which shall embrace all territory within the signatory States, the water in which flows ultimately into the Ohio River, or its tributaries.

ARTICLE III

The signatory States hereby create the "Ohio River Valley Water Sanitation Commission," hereinafter called

the Commission, which shall be a body corporate, with the powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the signatory States or by act or acts of the Congress of the United States.

ARTICLE IV

The Commission shall consist of three commissioners from each State, each of whom shall be a citizen of the State from which he is appointed, and three commissioners representing the United States Government. The commissioners from each State shall be chosen in the manner and for the terms provided by the laws of the States from which they shall be appointed, and any commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed. The commissioners representing the United States shall be appointed by the President of the United States, or in such other manner as may be provided by Congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incident to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any State or of the United States Government.

ARTICLE V

The Commission shall elect from its number a chairman and vice-chairman, and shall appoint, and at its pleasure remove or discharge, such officers and legal, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. It shall adopt a seal and suitable by-laws, and shall adopt and promulgate rules and regulations for its management and control. It may establish and maintain one or more offices within the District for the transaction of its business, and may meet at

any time or place. One or more commissioners from a majority of the member States shall constitute a quorum for the transaction of business.

The Commission shall submit to the Governor of each State, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such State for presentation to the legislature thereof.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time to the inspection of such representatives of the respective signatory States as may be duly constituted for that purpose.

On or before the first day of December of each year, the Commission shall submit to the respective governors of the signatory States a full and complete report of its activities for the preceding year.

The Commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the Commission pledge the credit of any of the signatory States, except by and with the authority of the legislature thereof.

ARTICLE VI

It is recognized by the signatory States that no single standard for the treatment of sewage or industrial wastes is applicable in all parts of the District due to such variable factors as size, flow, location, character, self-purification, and usage of waters within the District. The guiding principle of this compact shall be that pollution by sewage or industrial wastes originating within a signatory State shall not injuriously affect the various uses of the interstate waters as hereinbefore defined.

All sewage from municipalities or other political subdivisions, public or private institutions, or corporations, discharged or permitted to flow into these portions of the Ohio

River and its tributary waters which form boundaries between, or are contiguous to, two or more signatory States, or which flow from one signatory State into another signatory State, shall be so treated, within a time reasonable for the construction of the necessary works, as to provide for substantially complete removal of settleable solids, and the removal of not less than forty-five per cent (45%) of the total suspended solids; provided that in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article I, in specific instances such higher degree of treatment shall be used as may be determined to be necessary by the Commission after investigation, due notice and hearing.

All industrial wastes discharged or permitted to flow into the aforesaid waters shall be modified or treated, within a time reasonable for the construction of the necessary works, in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article I, to such degree as may be determined to be necessary by the Commission after investigation, due notice and hearing.

All sewage or industrial wastes discharged or permitted to flow into tributaries of the aforesaid waters situated wholly within one State shall be treated to that extent, if any, which may be necessary to maintain such waters in a sanitary and satisfactory condition at least equal to the condition of the waters of the interstate stream immediately above the confluence.

The Commission is hereby authorized to adopt, prescribe and promulgate rules, regulations and standards for administering and enforcing the provisions of this article.

ARTICLE VII

Nothing in this compact shall be construed to limit the powers of any signatory State, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory State, imposing additional con-

ditions and restrictions to further lessen or prevent the pollution of waters within its jurisdiction.

ARTICLE VIII

The Commission shall conduct a survey of the territory included within the District, shall study the pollution problems of the District, and shall make a comprehensive report for the prevention or reduction of stream pollution therein. In preparing such report, the Commission shall confer with any national or regional planning body which may be established, and any department of the Federal Government authorized to deal with matters relating to the pollution problems of the District. The Commission shall draft and recommend to the governors of the various signatory States uniform legislation dealing with the pollution of rivers, streams and waters and other pollution problems within the District. The Commission shall consult with and advise the various States, communities, municipalities, corporations, persons, or other entities with regard to particular problems connected with the pollution of waters, particularly with regard to the construction of plants for the disposal of sewage, industrial and other waste. The Commission shall, more than one month prior to any regular meeting of the legislature of any State which is a party thereto, present to the governor of the State its recommendations relating to enactments to be made by any legislature in furthering the intents and purposes of this compact.

ARTICLE IX

The Commission may from time to time, after investigation and after a hearing, issue an order or orders upon any municipality, corporation, person, or other entity discharging sewage or industrial waste into the Ohio River or any other river, stream or water, any part of which constitutes any part of the boundary line between any two or more of the signatory States or into any stream any part of which flows from any

portion of one signatory State through any portion of another signatory State. Any such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of. The Commission shall give reasonable notice of the time and place of the hearing to the municipality, corporation or other entity against which such order is proposed. No such order shall go into effect unless and until it receives the assent of at least a majority of the commissioners from each of not less than a majority of the signatory states; and no such order upon a municipality, corporation, person or entity in any State shall go into effect unless and until it receives the assent of not less than a majority of the commissioners from such State.

It shall be the duty of the municipality, corporation, person or other entity to comply with any such order issued against it or him by the Commission, and any court of general jurisdiction or any United States district court in any of the signatory States shall have the jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, corporation or other entity domiciled or located within such State or whose discharge of the waste takes place within or adjoining such State, or against any employee, department or subdivision of such municipality, corporation, person or other entity; provided, however, such court may review the order and affirm, reverse or modify the same upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The Commission or, at its request, the Attorney General or other law enforcing official, shall have power to institute in such court any action for the enforcement of such order.

ARTICLE X

The signatory States agree to appropriate for the salaries, office and other administrative expenses, their

proper proportion of the annual budget as determined by the Commission and approved by the Governors of the signatory States, one-half of such amount to be prorated among the several States in proportion to their population within the District at the last preceding federal census, the other half to be prorated in proportion to their land area within the District.

ARTICLE XI

This compact shall become effective upon ratification by the legislatures of a majority of the States of the States located within the District and upon approval by the Congress of the United States; and shall become effective as to any additional States signing thereafter at the time of such signing.

§ 2. In pursuance of Article IV of said Compact, there shall be three members (hereinafter called commissioners) of the Ohio River Valley Water Sanitation Commission (hereinafter called Commission) from the Commonwealth of Kentucky. The Governor, shall appoint two persons as two of such commissioners, each of which shall be a resident and citizen of the State of Kentucky. The terms of one of the said two commissioners first appointed shall be two years and of the other shall be four years; and their successors shall be appointed by the Governor, for terms of four years each. Each commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any such commissioner from any reason or cause shall be filled by appointment by the Governor, for the unexpired term. The third commissioner from the Commonwealth of Kentucky shall be the State Commissioner of Health ex officio, and the term of any such ex officio commissioner shall termniate at the time he ceases to hold said office of State Commissioner of Health, and his successors as a commissioner shall be his successors as said State Commissioner of Health. With the exception of the issuance of any order under the provisions

of Article IX of the Compact, said ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the Commission. The terms of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners, provided the said Compact shall then have gone into effect in accordance with Article XI of the Compact; otherwise shall begin upon the date upon which said Compact shall become effective in accordance with said Article XI.

Any commissioner may be removed from Office by the Governor.

§ 3. There is hereby granted to the Commission and the commissioners thereof all the powers provided for in the said Compact and all the powers necessary or incidental to the carrying out of said Compact in every particular. All officers of the Commonwealth of Kentucky are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary to or incidental to the carrying out of said Compact in every particular; it being hereby declared to be the policy of the Commonwealth of Kentucky to perform and carry out the said Compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of the Commonwealth of Kentucky are hereby authorized and directed at convenient times and upon request of the said Commission to furnish the said Commission with information and data possessed by them or any of them and to aid said Commission by loan of personnel or other means lying within their legal powers respectively.

The courts of general jurisdiction of the Commonwealth of Kentucky are hereby granted the jurisdiction specified in Article IX of said Compact, and the office of the Attorney

General or any other law enforcing officer of the Commonwealth of Kentucky is hereby granted the power to institute any action for the enforcement of the orders of the Commission as specified in said Article IX of the Compact.

§ 4. Any powers herein granted to the Commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said Commission by other laws of the Commonwealth of Kentucky or by the laws of the States of Illinois, Indiana, New York, Ohio, Pennsylvania, Tennessee and West Virginia or by Congress or the terms of said Compact.

Mr. Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 172 on page 8 section 1, line 210 by striking out the words "of the States" after the word "States" and before the word "located"

2. Amend H. B. 172 on page 8, section 1, after line 213 by adding the following:

"The Commonwealth of Kentucky hereby consents that the State of Virginia may become a party to and a signatory state of the aforesaid compact as fully as if it had been expressly named therein."

3. Amend H. B. 172 on page 9, section 2, lines 28 and 29 by striking out the words "upon charges and after a hearing, but opportunity to be heard shall be given" after the word "Governor" and by inserting in lieu therefor the following: "at any time for reason deemed sufficient to the Governor."

4. Amend H. B. 172 on page 10, section 6, lines 1, 2, 3, and 4 by striking out all of Section 6.

Said amendments were each and severally agreed to.

Mr. Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	D. E. Edwards	Frank C. McElwain
H. T. Baker	R. R. Ernst	E. Hayes McMakin
Robert E. Barry	Carlos Fallis	Norris McPherson
Alvis S. Bennett	T. P. Fitzpatrick	Sam G. Milam
Sterling B. Blake	Cecil Florence	Stanley C. Moebus
J. F. Bosworth	Wayne Freeman	John B. Mollette
W. S. Brim	Eugene Gough	Davis Moore
C. J. Bronston	Van Y. Greene	J. Lee Moore
Gus A. Brooks	Ralph C. Hamilton	Joe T. Morgan
Randolph A. Brown	C. L. Hammons	C. Homer Neikirk
Haynes Carman	T. H. Hickey	Carl D. Perkins
Charles M. Carter	Chester Huffines	B. W. Porter
James W. Chapman	John M. Hunnicutt	Kleber F. Price
John Coulter	W. H. Hunt	Hobart Rayburn
John H. Cox	R. L. Jackson	Thomas Rigdon
Pink G. Curd	Chas. X. Jones	W. H. Riley
F. E. Daugherty	John S. Juett	Joe E. Robinson
Stanley S. Dickson	W. A. Lamkin, Jr.	Lyman Roll
Louis B. Dugan	Robert E. Lee	Carl Scheben
Forest C. Easley	Edward Leslie	Leon J. Shaikun

Ray O. Shehan	Henry Stewart	Porter Wallace
Faust Y. Simpson	W. St. Clair Stuart	Henry Ward
Otto Smither	Otis C. Thomas	H. L. Waterfield
E. T. Sparks	Erna E. Tyra	Otis White
G. C. Springate	J. Wood Vance	James H. Woods
J. Claude Stacy	Walter R. Vansant	
Ray J. Stengel	S. J. Wagner	—79

There voted in the negative—

W. Paul Lyon —1

Resolved that the title thereof be as aforesaid.

Mr. Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The hour of two-twenty-five having arrived, the House resumed consideration of the Special Order set for two o'clock P.M., to-wit, a bill entitled:

H. B. 139. (For title see Journal of today ante)

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act: "Aid to Dependent Children" means money payments, and such services as may be necessary to provide for the welfare of a dependent child or dependent children; "Applicant" means a child for whom Aid to Dependent Children has been applied for under the provisions of this Act; "Recipient" means a child who is receiving Aid to Dependent Children under the provisions of this Act; "State Department" means the State Department of Welfare created by the Governmental Reorganization Act of 1936; "Dependent Child" means a needy child

under the age of sixteen (16), or under the age of eighteen (18) if found by the State Department to be regularly attending school, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt in a place of residence maintained by one more of such relatives as his or their home.

§ 2. *Eligibility for Aid to Dependent Children.* Aid to Dependent Children shall be granted to any dependent child who: (a) Has resided in the State for one year immediately preceding the application for Aid to Dependent Children, or who was born within the State within one year immediately preceding the application for Aid to Dependent Children if its parent or parents have resided in the State for one year immediately preceding the birth; (b) Is a resident of the State at the time of receiving Aid to Dependent Children.

§ 3. *Amount of Aid to Dependent Children to be Granted.* The amount of Aid to Dependent Children which shall be granted for any dependent child shall be determined with due regard to the resources and requirements of the family and the conditions existing in each case and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health.

§ 4. *Duties of the State Department.*

(a) The State Department shall (1) Have the administration of all funds appropriated or made available to it for the purposes of this Act; (2) Receive and administer such Federal funds as are made available and shall prepare and submit such reports may be required by the Federal Government with respect to Aid to Dependent Children; (3) Develop plans and policies for Aid to Dependent Children in co-operation with the Federal Government; (4) Develop

standards of service for the administration of Aid to Dependent Children in the State; (5) Co-ordinate the functions of the several Divisions in the State Department to provide specialized services to any applicant and recipient where such specialized services are deemed necessary for the welfare of a child or children; (6) Co-operate with the Division of Personnel Efficiency in the State Department of Finance in establishing standards for personnel employed in the administration of this Act and thesse personnel standards shall meet the minimum requirement of the Social Security Board in the Federal Government, and the State Department shall make rules and regulations necessary to maintain personnel standards; (7) Provide such forms, records and reports as may be necessary with respect to the administration of this Act;

(b) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State;

(c) The Commissioner of Welfare shall appoint in accordance with the Governmental Reorganization Act of 1936 such personnel, professional or otherwise, as are necessary to properly administer this Act.

§ 5. *Confidential Nature of Records.* Notwithstanding any other provisions of law it is hereby provided that all applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State Department.

§ 6. *Right of Appeal.* An applicant or recipient of Aid to Dependent Children as provided for in this Act, who shall be dissatisfied with the decision on his application, or because of delayed action on his application, for such Aid to Dependent Children or the amount of Aid to Dependent

Children or the amount of Aid to Dependent Children granted to him shall have the right to appeal to the State Department in the manner and form prescribed by rules and regulations of the State Department, and the State Department shall establish rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

§ 7. *Aid to Dependent Children Not Assignable.* All Aid to Dependent Children granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

§ 8. *Short Title.* This Act shall be known as the Aid to Dependent Children Act.

§ 9. *Repeal of existing laws.* All laws and parts of laws in conflict with any of the provisions of this Act are hereby expressly repealed.

§ 10. *Separability clause.* It is hereby declared to be the intent of the Legislature that if this Act cannot take effect in its entirely because any section, paragraph, clause, or word of this Act shall be adjudged to be unconstitutional, such adjulication shall not effect the remaining portion of this Act and said remaining portion shall be given full force and effect as completely as if the part held unconstitutional had not been included.

Mr. Bolling offered the following amendment to said bill, viz.:

Amend H. B. 139 on page 3, section 4, line 26 subsec. (c) by adding after the word "welfare" and before the word "shall" the following "with approval of the Governor"

Said amendment was agreed to.

Mr. Bolling moved the Previous Question.

Thereupon the Speaker announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the armative were—

J. Everett Bach	R. R. Ernst	Edward Leslie
H. T. Baker	Carlos Fallis	C. C. May
Robert E. Barry	T. P. Fitzpatrick	T. B. McConnell
Alvis S. Bennett	Cecil Florence	Frank C. McElwain
Sterling B. Blake	Wayne Freeman	E. Hayes McMakin
Douglas T. Bolling	Eugene Gough	Norris McPherson
J. F. Bosworth	Van Y. Greene	G. Sam Milam
W. S. Brim	Ralph C. Hamilton	Stanley C. Moebus
Gus A. Brooks	C. L. Hammons	John B. Mollette
Randolph A. Brown	T. H. Hickey	Davis Moore
Haynes Carman	Clyde S. Howard	J. Lee Moore
Charles M. Carter	Chester Huffines	Joe T. Morgan
John Coulter	John M. Hunnicutt	C. Homer Neikirk
John H. Cox	W. H. Hunt	Carl D. Perkins
Pink G. Curd	R. L. Jackson	H. O. Porter
F. E. Daugherty	J. B. Jarboe, Jr.	Kleber F. Price
Stanley S. Dickson	Chas. X. Jones	Hobart Rayburn
Louis B. Dugan	John S. Juett	Thomas Rigdon
Forest C. Easley	W. A. Lamkin, Jr.	W. H. Riley
D. E. Edwards	Robert E. Lee	Joe E. Robinson
Harry W. Ennis	Harvey D. Leonard	Lyman Roll

Jack Savage	J. Claude Stacy	S. J. Wagner
Carl Scheben	Ray J. Stengel	Porter Wallace
Leon J. Shaikun	Henry Stewart	Henry Ward
Ray O. Shehan	W. St. Clair Stuart	H. L. Waterfield
Faust Y. Simpson	T. M. Swope	Otis White
Bruce Sloan	Otis C. Thomas	James H. Woods
Otto Smither	Erna E. Tyra	Mr. Speaker
E. T. Sparks	J. Wood Vance	
G. C. Springate	Walter R. Vansant	—88

Resolved that the title thereof be as aforesaid.

Mr. Bolling moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 80. An Act to declare the necessity of creating governmental subdivisions of the State, to be known as "Soil Conservation Districts", etc.

Mr. J. Lee Moore moved that said bill be made a Special Order of the Day for Friday, February 9, at two o'clock P. M.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. J. Lee Moore and Bach, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Alvis S. Bennett	Charles M. Carter
H. T. Baker	C. J. Bronston	James W. Chapman
Wm. T. Beard	Haynes Carman	John H. Cox

Pink G. Curd	C. C. May	Ray O. Shehan
Stanley S. Dickson	Frank C. McElwain	Otto Smither
Forest C. Easley	E. Hayes McMakin	E. T. Sparks
D. E. Edwards	G. Sam Milam	G. C. Springate
R. R. Ernst	Stanley C. Moebus	J. Claude Stacy
Carlos Fallis	John B. Mollette	Henry Stewart
Cecil Florence	Davis Moore	W. St. Clair Stuart
Wayne Freeman	J. Lee Moore	T. M. Swope
T. H. Hickey	Joe T. Morgan	Otis C. Thomas
Clyde S. Howard	Carl D. Perkins	Walter R. Vansant
W. H. Hunt	B. W. Porter	Porter Wallace
R. L. Jackson	Kleber F. Price	H. L. Waterfield
J. B. Jarboe, Jr.	Thomas Rigdon	Otis White
John S. Juett	W. H. Riley	James H. Woods
William K. King	Lyman Roll	
Harvey D. Leonard	Jack Savage	—55

Those who voted in the negative were—

Robert E. Barry	Eugene Gough	Joe E. Robinson
Sterling B. Blake	Ralph C. Hamilton	Carl Scheben
J. F. Bosworth	C. L. Hammons	Leon J. Shaikun
W. S. Brim	Chester Huffines	Faust Y. Simpson
Randolph A. Brown	Chas. X. Jones	Ray J. Stengel
John Coulter	Edward Leslie	Erna E. Tyra
Louis B. Dugan	W. Paul Lyon	J. Wood Vance
Harry W. Ennis	T. B. McConnell	S. J. Wagner
T. P. Fitzpatrick	Norris McPherson	Henry Ward
		—27

Mr. J. Lee Moore moved that the Clerk of the House be directed to have printed sufficient copies of the amendments as proposed by the Committee on Agriculture No. 1 to said bill, for distribution to the members of the House.

Said motion was agreed to.

The hour of two-thirty o'clock P. M. having arrived, that being the hour for the Special Order, to-wit: a bill entitled:

H. B. 35. An Act relating to Revenue and Taxation, amending sections 4281f-1, as amended by Chapter 34 of the Acts of 1938, and 4281f-2 of Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency.

With a Committee amendment thereto by ways of Substitute therefor.

Thereupon the House took up said bill for consideration.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4281f-1 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 34 of the Acts of 1938, is amended to read as follows:

Definitions. (a) "Places of amusement and/or entertainments" includes all theaters, ball parks and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places, *carnivals,* and all places, whether like those above mentioned or not, at which business providing amusement or entertainment, for which a charge is made, are operated; but does not mean race tracks subject to supervision by the Kentucky Racing Commission, athletic contests in which one of the contesting teams is composed exclusively of students of any educational institution in Kentucky, or public bathing places or swimming pools owned and operated by municipalities.

(b) *"Carnivals" means all street fairs except state and county fairs, all amusements parks, shows operated either directly or by concessionares in two or more separate units, exhibitions or main side shows, and similar enterprises where rides, shows, exhibitions, concessions, cane racks or games of skill are operated.*

(c) "Sale" includes the transfer or exchange for valuable consideration of any service.

(d) "Professional entertainers" means persons who receive compensation for their performances.

(e) "Proprietor" means any person who owns, operates, or manages a place of amusement and/or entertainment.

(f) "Department" means the Department of Revenue.

§ 2. Section 4281f-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Excise tax; exemption. (1) An excise tax is imposed on the sale of admissions to all places of amusement and/or entertainment, *except carnivals,* at the following rates:

Admission Charge	*Tax*
Less than 11 cents	No Tax
11 to 18 cents	1 cent
19 to 28 cents	2 cents
29 to 38 cents	3 cents
Over 38 cents	3 cents plus 1 cent for each additional 5 cents or fractional part thereof.

(2) At places of amusement and/or entertainment where food or drink is served and professional entertainers are employed, the taxable admission charge shall be deemed to be either the cover charge or twenty-five per cent of the total charge made, whichever is greater. If there is a charge for seating, or for special facilities within the place of amusement and/or entertainment, the taxable admission charge shall be deemed to include both the charge for general admission and the charge for seating or special facilities.

(3) *An excise tax is imposed on the operations of every carnival in a sum equal to ten per cent of its gross receipts, including the gross receipts of all its separate units and concessions.*

(4) No tax is imposed if at least seventy-five per cent of the gross proceeds of the place of amusement and/or

entertainment are to be used exclusively for charitable, educational or religious purposes within this state.

§ 3. Whereas, many carnivals will be in operation before this Act becomes effective, and,

Whereas, the state otherwise would be deprived of a large amount of revenue necessary for the maintenance of the state government, an emergency is declared to exist, and this Act shall become a law and be effective upon its passage and approval by the Governor.

Said Substitute is as follows, viz.:

AN ACT to impose an occupational license on carnivals, circuses and state fairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.*—(a) "Carnival" or "carnivals" shall mean shows in two or more tents, rides or concessions, or combinations of two or more shows, rides, concessions and stands connected therewith for profit.

(b) "Person" shall mean and include any individual, firm, partnership, association, corporation, or other group or combination acting as a unit.

(c) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

(d) "Trucks, baggage and railroad cars" shall mean any truck, baggage car or railroad car when wholly or partly loaded with tent show equipment, concessions, or amusement riding device outfits, attached to or traveling with any carnival.

(e) "Proprietor" shall mean and include any person who owns, operates, or manages a carnival.

§ 2. The administration of this Act is hereby vested in the Department which may prescribe forms and issue rules and regulations necessary for the enforcement of this Act.

§ 3. No person shall engage in the occupation of operating carnival in Kentucky until such person has paid to the Department the fees prescribed herein and obtained a license therefor. Before the first showing in Kentucky each person so engaged shall pay the following fees for the calendar year, or fraction thereof:

For each carnival transported or shown in Kentucky on twenty-five (25) or less trucks, or ten (10) or less baggage or railroad cars, or the equivalent thereof—Five Hundred Dollars ($500);

For each carnival when transported or shown in Kentucky on twenty-six (26) or more trucks, or eleven (11) or more baggage or railroad cars, or the equivalent thereof—One Thousand Dollars ($1,000).

§ 4. The Department through its authorized agents shall have the right to inspect any carnival operating in this State and to count and inspect the number of trucks, baggage cars or railroad cars used by such carnival.

§ 5. Any person operating a carnival in Kentucky without having first paid the fee and obtained the license prescribed in this Act shall be subject to a penalty of 20 per cent of the amount of the license fee in addition to the fee itself and 6 per cent interest until paid.

§ 6. Any violation of this Act shall be a misdemeanor and the person so violating it shall be fined by a court of competent jurisdiction not less than One Hundred Dollars ($100) nor more than Five Hundred Dollars ($500) and/or imprisoned not less than thirty (30) days and not more than six (6) months.

§ 7. The Department shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the proprietor until said tax is paid.

§ 8. The Department may at or after the commencement of an action for the purpose of collecting the amount

of tax due and penalty and interest thereon as set out herein, have an attachment against the property of the proprietor or garnishment of his debtors, without the execution of bond, upon filing an affidavit showing the nature of the claim, that it is just, the sum which the Department believes the State should recover from the proprietor, and any of the grounds upon which an attachment is authorized by the civil code of practice in civil causes.

§ 9. Any person paying the license fee herein provided and who also is subject to the Kentucky amusement tax may credit the amount of the license fee paid hereunder against the amount of amusement tax due. Such credit must be taken in the same calendar year as of the issuance of the license. The provisions of this Act are in no way to affect the time and manner of reporting as required in the amusement tax law. (Section 4281f-1 et seq. Carroll's Kentucky Statutes).

§ 10. WHEREAS, many carnivals will be in operation before this Act would become effective, and

WHEREAS, the Commonwealth would be deprived of revenue thereby,

AN EMERGENCY is declared to exist and this Act will become law immediately upon its passage and approval by the Governor of the Commonwealth.

Said Substitute was then adopted.

Mr. H. O. Porter moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Eugene Gough	B. W. Porter
Wm. T. Beard	Van Y. Greene	H. O. Porter
Alvis S. Bennett	Ralph C. Hamilton	Kleber F. Price
Sterling B. Blake	C. L. Hammons	Hobart Rayburn
Douglas T. Bolling	T. H. Hickey	Lyman Roll
J. F. Bosworth	Clyde S. Howard	Jack Savage
C. J. Bronston	Chester Huffines	Carl Scheben
Gus A. Brooks	John M. Hunnicutt	Leon J. Shaikun
Haynes Carman	W. H. Hunt	Ray O. Shehan
Charles M. Carter	Chas. X. Jones	Bruce Sloan
James W. Chapman	John S. Juett	Otto Smither
John Coulter	W. A. Lamkin, Jr.	E. T. Sparks
Pink G. Curd	Robert E. Lee	G. C. Springate
F. E. Daugherty	Edward Leslie	J. Claude Stacy
Stanley S. Dickson	W. Paul Lyon	Ray J. Stengel
Louis B. Dugan	C. C. May	Henry Stewart
Forest C. Easley	T. B. McConnell	W. St. Clair Stuart
D. E. Edwards	Frank C. McElwain	T. M. Swope
Harry W. Ennis	Norris McPherson	Otis C. Thomas
R. R. Ernst	G. Sam Milam	Erna E. Tyra
Carlos Fallis	J. Lee Moore	Walter R. Vansant
T. P. Fitzpatrick	Joe T. Morgan	Porter Wallace
Cecil Florence	C. Homer Neikirk	
Wayne Freeman	Carl D. Perkins	—70

Those who voted in the negative were—

H. T. Baker	W. S. Brim	J. B. Jarboe, Jr.
Robert E. Barry	Randolph A. Brown	Harvey D. Leonard

Davis Moore	Faust Y. Simpson	Otis White
W. H. Riley	S. J. Wagner	James H. Woods
Joe E. Robinson	H. L. Waterfield	

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Mr. Hunnicutt offered the following amendments to the title of said bill, viz.:

Amend the title to H. B. 35 by striking out the words "and state fairs" and placing a period (.) after the word "circuses"

Amend the title to H. B. 35 by striking out the comma (,) between the words "carnivals" and "circuses" and inserting in lieu thereof the word "and"

Said amendments were each agreed to.

Resolved that the title thereof be as amended.

Mr. H. O. Porter moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 18. An Act regulating the relation between owners and operators of motor vehicles and certain passengers therein:

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any person who becomes a passenger in any motor vehicle without paying compensation for his or her transportation thereby covenants and agrees to and with the owner and operator that he or she shall not sue said owner and operator, or either of them, for any injuries or damages sustained in any accident involving said motor vehicle, unless said passenger when entering said vehicle shall inform the operator thereof that said passenger does not so covenant or agree with said owner and operator.

All laws in conflict herewith are hereby repealed.

Mr. Howard moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	Wayne Freeman	Edward Leslie
Wm. T. Beard	T. H. Hickey	John B. Mollette
Alvis S. Bennett	Clyde S. Howard	Joe T. Morgan
Douglas T. Bolling	Chas. X. Jones	B. W. Porter
J. F. Bosworth	William K. King	H. O. Porter
Gus A. Brooks	W. A. Lamkin, Jr.	Kleber F. Price
Haynes Carman	Robert E. Lee	Otto Smither
Harry W. Ennis	Harvey D. Leonard	Henry Stewart

Erna E. Tyra	S. J. Wagner	James H. Woods
Walter R. Vansant	Otis White	—29

Those who voted in the negative were—

C. W. Anderson, Jr.	C. L. Hammons	Lyman Roll
W. S. Brim	John M. Hunnicutt	Jack Savage
Randolph A. Brown	W. H. Hunt	Carl Scheben
James W. Chapman	J. B. Jarboe, Jr.	Ray O. Shehan
Pink G. Curd	W. Paul Lyon	Faust Y. Simpson
F. E. Daugherty	Norris McPherson	Ray J. Stengel
D. E. Edwards	Sam G. Milam	W. St. Clair Stuart
R. R. Ernst	Davis Moore	Otis C. Thomas
Cecil Florence	J. Lee Moore	J. Wood Vance
Eugene Gough	Carl D. Perkins	Porter Wallace
Van Y. Greene	Thomas Rigdon	Henry Ward
Ralph C. Hamilton	Joe E. Robinson	H. L. Waterfield
		—36

Mr. Swope moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Sparks.

H. B. 360. AN ACT relating to vehicles used to carry or contain explosives, and amending subsection 5 of section 13 of Chapter 106 of the Acts of 1938, compiled as section 2739g-69e of Baldwin's Kentucky Statute Service, May, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Subsection 5 of section 13 of Chapter 106 of the Acts of 1938, compiled as section 2739g-69e of Baldwin's Ken-

tucky Statute Service, May, 1938, is amended to read as follows:

2739g-69e. *Vehicles transporting explosives.* (1) No person shall operate on any highway a vehicle carrying or containing explosives without complying with this section.

(2) At all times when being used to carry or contain explosives, the vehicle shall be conspicuously marked on each side and on the rear with the word "Explosives," in letters not less than eight inches high; or a red flag not less than twenty-four inches square, marked with the word "Danger" in white letters not less than six inches high, shall be conspicuously displayed on the rear of the vehicle. No marking, lettering or flag indicating danger or that the vehicle contains explosives shall be allowed to remain in view on or about the vehicle at any time when explosives are not carried or contained in the vehicle.

(3) Every vehicle containing explosives shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle.

By Mr. Swope.

H. B. 361. AN ACT creating a Kentucky Board of Motion Picture Censorship as a division of the Department of Education, providing for the licensing, regulation and censorship of motion and sound films, reels or records used in connection with motion pictures and matters connected therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act unless the context clearly requires otherwise:

(1) "Department" means Department of Education.

(2) "Board" means Kentucky Board of Motion Picture Censorship of the Department of Education.

(3) "State" means State of Kentucky.

§ 2. *Appointment of the board.* A board is created to be known as the Kentucky Board of Motion Picture Censorship as a part of the Department of Education, which shall consist of three members to be appointed by the Governor, one of whom shall be a woman. Each member of the board shall hold office for four years and until his successor is appointed and qualified except that when the board is first created, one member shall be appointed for two years, one for three years and one for four years. Thereafter, upon the expiration of the term of any members, his successor shall be appointed for a full term of four years. Of the board as first constituted the member appointed for two years shall be chairman during his term, the member appointed for three years during the third year, and the member appointed for four years during the fourth year. Thereafter the senior member in length of service on the board in his current term in any given year shall be chairman during that year. Vacancies of the board shall be filled by the Governor by appointment for remainder of the unexpired term, but no vacancy shall impair the rights of the remaining members to exercise all the powers of the board nor shall relieve such members from discharging all the duties of the board during the vacancy. In the event of a vacancy the appointee for the unexpired term shall not succeed his predecessor in the chairmanship of the board; such other members as would, but for the vacancy, have been chairman shall at once succeed to the unexpired chairmanship, when, a vacancy occurs therein, in addition to the year's chairmanship to which he would otherwise have been entitled.

§ 3. *Duties and powers of the board.* (1) It shall be the duty of the board to examine and censor as herein provided, all motion picture films to be publicly exhibited and

displayed in the state of Kentucky; also, the so called silent films and all types of motion pictures reproducing sound through synchronization with spoken words, sound and music. All sound, words, songs and spoken dialogue, as well as scenes and written subtitles coming within the inhibitions of this chapter, shall be subject to the jurisdiction of the board.

(2) When necessary the board may designate certain of the assistants furnished to it by the Department of Education, who, under the direction and supervision of the board, may examine motion picture films. Films shall be submitted to and approved by the board before they shall be delivered to the exhibitor for exhibition.

(3) The board or its designated assistants shall promptly examine every motion picture film submitted to it as herein required, and unless the film or any part thereof, including substitles, spoken dialogue, songs, other words or sounds, is obscene, indecent, immoral, inhuman, or sacrilegious, or is of such a character that its exhibition would tend to corrupt morals or incite to crime, shall issue a license therefor.

§ 4. *License must be obtained.* No films shall be publicly shown or exhibited within the state unless they have been stamped and numbered as provided in this Act.

§ 5. *Applications.* No license or permit shall be issued for any film or reel unless and until application therefor has been made in writing in form, manner and substance prescribed by the Department, and accompanied by the required fee. The application shall immediately be given a serial number which shall by the producer, owner or applicant be made a permanent part of the principal title portion of the corresponding film or reel and every copy thereof for which the permit or license is applied, in such style and substance as the Department prescribes.

§ 6. *What films shall be approved.* Only films which are in the judgment and discretion of the board of a moral, educational or amusing and harmless character, and are not

such as may be classified, or any part thereof, as obscene, indecent, immoral, inhuman, sacrilegious, or of such a character that their exhibition would tend to corrupt morals or incite to crime, shall be approved and licensed by the board. When a film has been censored and approved by the board a license or permit showing the approval of the film, with an approved number shown on it, shall be issued to the party submitting the film. For each film approved there shall also be issued by the board an official leader or stamp of approval of not less than three feet in length bearing the words "Approved by the Kentucky Board of Censorship", with the number assigned to the film on the license or permit. If the film or any part thereof is rejected the board shall immediately furnish to the applicant a written report giving the reasons for its rejection or a description of each rejected part of a film not rejected in whole. Upon the approval or rejection of any film or part thereof the board shall immediately give to the party, or its agent, attorney or representative, submitting same, notice of its action by delivering said notice to such party and taking receipts for same, or depositing same in the United States mail in a registered return addressed envelope with the required amount of postage on same addressed to the party's last known address. The board may recall any film for recensoring or revoke any license or permit permitting the exhibition of any film in the state, when in its judgment the public welfare requires it. Before any motion picture film is publicly exhibited all eliminations ordered by the board shall be made by the person or persons loaning, renting or leasing the film to the exhibitor for exhibition, and there shall be projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, issued by the board for the film.

§ 7. *What licenses or permits may be issued without inspection.* (1) The board may issue a permit for any film protraying current events and not otherwise prohibited by law without inspecting it.

(2) The board shall issue a permit for every motion picture film of a strictly scientific character intended for use by the learned professions, without examining it if the owner thereof, either personally or by his duly authorized attorney or representative, files an application including a sworn description of the film and statement that the film will not be exhibited at any public or private place for amusement.

(3) The board may issue without examination a permit for any motion picture film intended solely for strictly educational, charitable and religious purposes, or by any employer for the instruction or welfare of his employes, if the owner thereof, either personally or by his duly authorized attorney or representative, files an application including a sworn description of the film and statement that the film will be exhibited only for the above named purposes.

(4) The board may without inspection issue permits for duplicate copies of films, the originals of which have been publicly exhibited in this state prior to May 14, 1940.

(5) No fee shall be charged for permits for films set forth in this section.

§ 8. *Board may work in conjunction with others.* The board may work in conjunction with any censor boards of legal status of other states as a censor congress and the action of such congress in approving or rejecting films shall be considered as the action of the board, and all films passed, approved, stamped and numbered by the congress, when the fees therefor have been paid to the Kentucky board, shall be considered approved by the board.

§ 9. *Fees to be charged and disposition thereof.* (1) The board shall charge a fee of three dollars for each reel of film censored which does not exceed one thousand lineal feet and three dollars for each additional one thousand lineal feet or fractional part thereof. If application is made for one or more duplicates at the same time the application for the original is made or thereafter, the board shall collect a fee

of two dollars for each one thousand feet or fraction of the duplicate film for each permit or license issued.

(2) All moneys so received shall be paid each week into the State Treasury. A sufficient amount of the moneys so received, to be determined by the Commissioner of Finance, shall be placed in a revolving fund to be used to pay the operation of the board, including the fees, salaries and expenses of the members of the board of censorship, its assistants, and other employes. Fifty per cent of the remaining moneys shall be credited to the Common School Per Capita Fund and fifty per cent to the General Expenditure Fund.

§ 10. *Salaries and expenses, when and how paid.* Each member of the board shall receive ten dollars per day for his services for each day or part of day he is engaged in examining and passing on motion picture films or records, for which a fee is charged as provided in section 9 hereof, and his necessary expenses, but the amount paid to a member for services shall not exceed the sum of two thousand dollars in any twelve months. Such fees, salaries and expenses shall be paid from the revolving fund created in section 9, when properly certified by the Department.

§ 11. *Appeal; how taken.* Any person having an interest in an order of the board approving or rejecting any film or reel or making any change or elimination in any part thereof may, within ten days after notice of the order, appeal to the Franklin Circuit Court by filing a copy of the order complained of and a verified petition, stating grounds on which review is sought, with the clerk of the court, who shall issue summonses against the Board and adverse parties. The case shall be docketed and practiced as a case in equity but shall be advanced for hearing over other equity cases.

§ 12. *Powers of court; order may be stayed.* The court may sustain, modify or reverse the order, or remand the case to the board for proceedings in conformity with the direction of the court. The court or judge in vacation may suspend

the operation of the order pending appeal on such terms as it deems just.

§ 13. *Grounds for reversal or modification.* The court may reverse or modify the order only if:

(1) The board acted without or in excess of its power, or

(2) The order was procured by fraud, or

(3) The findings of fact are not supported by any substantial evidence.

§ 14. *Appeals to Court of Appeals.* Appeals may be taken to the Court of Appeals as in other civil cases. The appeal shall on motion be advanced over other civil cases.

§ 15. *Film pending appeal.* No film, record or reel shall be exhibited, leased, sold or delivered as herein prohibited during the appeal to the circuit court or Court of Appeals.

§ 16. *Location and Equipment for exhibition and examination of films.* The Department shall, by purchase, construction or lease procure a proper location and necessary equipment for the required exhibition of films, not to exceed in cost the sum of ten thousand dollars, said amount to be paid out of the General Expenditure Fund, which fund shall be reimbursed for the amount thus expended out of the money realized from the fees provided for in section 9 hereof.

§ 17. *Authority to employ assistants and other employes.* The Department may employ necessary assistants, servants, agents and employes to carry out the provisions of this Act, and fix their remuneration which shall be paid out of the revolving fund created in section 9.

§ 18. *Board to make annual report.* The board shall at the close of each fiscal year, and from time to time, as the Department requires, make a report in writing to the Department, stating in detail the number of films, reels and records it has examined and for which licenses or permits have been granted and the number rejected; the amount of money received; the names, salaries and duties of all employes and

officers in its employ or under the supervision of the board; an account of all moneys it has disbursed; and such other information as the Department requests.

§ 19. *Rules and regulations.* The board, with the approval of the Department, shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this Act. Such rules and regulations shall be effective upon publication in the manner which the board shall prescribe.

§ 20. *Penalties for unlicensed film and for counterfeiting official stamps or leader.* (1) Any person, who publicaly exhibits or shows any motion picture within the state unless it has been approved by the board or without having first projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, assigned to the film as shown on the license or permit issued by the board, shall be fined not less than twenty-five dollars nor more than three hundred dollars, for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each subsequent offense.

(2) Any person acting as a distributor of motion picture films who delivers any film to any person or public exhibition in the state, before the film has been passed and approved by the board, or before eliminations, ordered by the board, have been made, or which contains a part added after the original film has been censored and approved by the Board, or when the license permitting the exhibition of the film has been revoked by the board, shall be fined not less than three hundred dollars nor more than five hundred dollars, for the first offense; and shall be fined not less than five hundred dollars nor more than one thousand dollars for each subsequent offense.

(3) Any person acting as a distributor of motion picture films who delivers to an exhibitor or other person for public

exhibition within the state any motion picture film to which is not attached or which is not accompanied by the leader or stamp of approval, assigned to the film as shown on the license or permit, issued by the board, shall be fined not less than twenty-five dollars nor more than three hundred dollars for each offense.

(4) Any person who publicly exhibits or shows any motion picture within the state that contains parts or sections that have been ordered eliminated by the board, or that contains any part or parts which have been added to the motion picture after it has been censored and approved by the board, or when the license or permit permitting the exhibition of the motion picture has been revoked by the board, shall be fined not less than twenty-five dollars nor more than three hundred dollars, for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each subsequent offense.

(5) No penalties shall be imposed for the delivery or exhibition of any film or reel authorized and allowed by section 7.

(6) Any person, or any agent, employe or officer of a corporation or firm who counterfeits the hereinbefore described official leader or stamp of approval or use or has in his possession such a counterfeit leader or stamp or any similar designation not issued by the board of censorship, shall be confined in the state penitentiary for a period of not less than one year nor more than three years.

§ 21. *Original expenses.* Expenses and salaries of the board and employes in carrying out this Act shall be paid out of the General Expenditure Fund until there are sufficient funds in the revolving fund created in section 9, to pay such expenses and salaries.

Ordered that said bills be printed and referred.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on tomorrow at ten-thirty o'clock A.M.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, FEBRUARY 9, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Fred T. Moffatt of the First Baptist church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

J. Everett Bach	Pink G. Curd	Chester Huffines
H. T. Baker	W. Q. Daniel	John M. Hunnicutt
Robert E. Barry	F. E. Daugherty	W. H. Hunt
Wm. T. Beard	Stanley S. Dickson	J. B. Jarboe, Jr.
Alvis S. Bennett	Louis B. Dugan	Chas. X. Jones
Rell Bevins	D. E. Edwards	John S. Juett
Sterling B. Blake	Harry W. Ennis	William K. King
Douglas T. Bolling	R. R. Ernst	W. A. Lamkin, Jr.
J. F. Bosworth	Carlos Fallis	Robert E. Lee
W. S. Brim	T. P. Fitzpatrick	Harvey D. Leonard
C. J. Bronston	Cecil Florence	Edward Leslie
Gus A. Brooks	Wayne Freeman	W. Paul Lyon
Randolph A. Brown	Eugene Gough	C. C. May
Haynes Carman	Van Y. Greene	T. B. McConnell
Charles M. Carter	Ralph C. Hamilton	Frank C. McElwain
James W. Chapman	C. L. Hammons	E. Hayes McMakin
John Coulter	T. H. Hickey	Norris McPherson
John H. Cox	Clyde S. Howard	G. Sam Milam

Stanley C. Moebus	Lyman Roll	W. St. Clair Stuart
Davis Moore	Jack Savage	T. M. Swope
J. Lee Moore	Carl Scheben	Otis C. Thomas
Joe T. Morgan	Leon J. Shaikun	Erna E. Tyra
C. Homer Neikirk	Ray O. Shehan	J. Wood Vance
Carl D. Perkins	Faust Y. Simpson	Walter R. Vansant
B. W. Porter	Bruce Sloan	S. J. Wagner
H. O. Porter	Otto Smither	Porter Wallace
Kleber F. Price	E. T. Sparks	Harry F. Walters
Hobart Rayburn	G. C. Springate	Henry Ward
Thomas Rigdon	J. Claude Stacy	H. L. Waterfield
W. H. Riley	Ray J. Stengel	Otis White
Joe E. Robinson	Henry Stewart	James H. Woods

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Mr. Neikirk moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Greene of the Committee on Miscellaneous Affairs.

H. B. 224. An Act to amend Sec. 216aa-3 and Sec. 4618-106 of Carroll's Kentucky Statutes, Baldwin's 1936 edition, relating to the administration of the charitable and correctional institutions of the State.

By Mr. Brooks of the Committee on Agriculture No. 1.

H. B. 115. An Act creating a Division of Markets in the Department of Agriculture, Labor and Statistics, defining its powers etc.

With a Committee Amendment thereto by way of Substitute therefor.

By Mr. Joe E. Robinson of the Committee on Revenue and Taxation No. 1.

H. R. 321. An Act relating to all classes of property actually or presumptively subject to escheat; etc.

By Mr. Leonard of the Committee on Fish and Game No. 1-A.

H. B. 347. An Act authorizing the Governor to transfer to the Department of Conservation, for the use and benefit of the Division of Game and Fish, the possession, control and management of one hundred acres of land located in Mercer county.

H. B. 323. An Act to repeal, amend and re-enact Sec. 1954d-42, Kentucky Statutes, relating to game and fish.

By Mr. Beard of the Committee on Fish and Game No. 1.

H. B. 130. An Act to provide that persons seventy years of age or over shall be exempt from fishing license for hand pole and line fishing.

With a Committee amendment thereto.

H. B. 49. An Act for the protection of birds.

H. B. 318. An Act providing for the revocation of hunting, fishing, trapping, seining, loopnet and fur buyers or dealers and mussel licenses.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 151. An Act to repeal, amend and re-enact Sec. 2089L-3, 2089L-4, 2089L-5 of Baldwin's Kentucky Statutes, relating to the incorporation and regulation of non-profit Hospital Service Corporations.

With an Committee amendment thereto by way of Substitute therefor.

By Mr. H. O. Porter of the Committee on Education No. 1.

H. B. 350. An Act to provide for the election of members of the boards of education, etc.

H. B. 250. An Act to amend Sec. 186 of the Constitution of the Commonwealth of Kentucky relating to the distribution and use of the public school fund of the Commonwealth of Kentucky.

H. B. 247. An Act providing for a Teacher Retirement System for the State of Kentucky etc.

With a Committee Amendment thereto by way of Substitute therefor.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 209. An Act to establish a Kentucky Farm Tenancy Commission; to define its work; to provide for its conduct and expenses; etc.

H. B. 340. An Act to prevent the spread of syphilis and to provide for an antenuptial physical examination to determine the presence of syphilis, etc.

H. B. 198. An Act providing a notice to cities of the State of Kentucky of intention to claim damages for any injuries.

Without an expression of opinion.

With the expression of opinion that said bills and resolutions ought to pass, with the exception of those specifically set out above.

Said bills and resolutions were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Rigdon of the Committee on Claims.

H. Res. 6. Resolution authorizing Rosamond McCallister or her personal representative to sue the Commonwealth.

With the expression of opinion that said resolution ought not to pass.

No motion having been made to advance said resolution to a reading the report of the Committee to the contrary notwithstanding and no further action having been taken by the House on said resolution, it was ordered that said resolution be not read at length the first time and so said resolution was rejected.

Mr. Rigdon of the Committee on Claims to which the same had been recommitted, reported resolutions of the following titles, viz.:

H. Res. 44. Resolution authorizing John D. Hampton of the Pure Oil Company, Coal City Petroleum Company, Southern Dairies, Incorporation and Willard D. Morrison to sue the Commonwealth.

With a Committee Amendment thereto.

H. Res. 38. Resolution authorizing and permitting Bailey Mosely to sue the Commonwealth.

With a Committee Amendment thereto.

H. Res. 35. Resolution authorizing L. G. Leachman to sue the Commonwealth.

H. Res. 34. Resolution authorizing Hershel Randolph next friend and guardian of Edna Randolph, a minor, to sue the Commonwealth.

With a Committee Amendment thereto.

H. Res. 29. Resolution authorizing W. M. Jackson and his wife, Mrs. Lizzie T. Jackson to sue the Commonwealth.

With a Committee Amendment thereto.

H. Res. 27. Resolution authorizing Lon Sutherland to file and prosecute suit against the Commonwealth of Kentucky.

H. Res. 21. Resolution authorizing Eula Morgan to sue the Commonwealth.

With Committee Amendments thereto.

H. Res. 20. Resolution authorizing Mary E. Tincher to sue the Commonwealth.

With a Committee Amendment thereto and without an expression of opinion.

H. Res. 18. Resolution authorizing and permitting J. E. Monroe to sue the Commonwealth.

With Committee Amendments thereto.

H. Res. 16. Resolution authorizing E. Pinkston of Fisherville, Jefferson county to sue the Commonwealth.

With a Committee Amendment thereto.

H. Res. 15. Resolution authorizing the Pate Motor Company to file suit against the Commonwealth.

With a Committee Amendment thereto.

H. Res. 13. Resolution for the payment of the Hon. W. B. Lackey, Chief of Police of Richmond, Kentucky the sum of $73.20.

With the expression of opinion that said resolutions ought to pass, as amended.

Ordered that said resolutions take their place in the Orders of the Day.

The House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. B. 319. An Act relating to Game and Fish and providing the method, manner and time of taking wild animals, wild birds and fish;

With committee amendments thereto.

H. B. 258. An Act conferring upon the city and county air board in counties containing a city of the first class, and all cities of the second and third class, the power to promulgate and enforce airport zoning regulations, etc.

S. B. 24. An Act prohibiting the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk, cream, etc.

S. B. 46. An Act to repeal, amend and re-enact Chapter 61 of the Acts of the General Assembly of 1939, being Sec. 1050 of Carroll's 1938 Supplement etc.

H. B. 296. An Act providing for the regulation of lawful coin or token operated vending machines or devices and all other law coin or token operated machines etc.

With a Committee amendment thereto.

H. B. 271. An Act relating to garnishment on judgments in personam.

H. B. 275. An Act to simplify and modernize divorce procedure and to relieve against inequalities in the application thereof etc.

H. B. 200. An Act to amend section 216aa-7 of Carroll's Kentucky Statutes, 1936 Edition, and providing for the arrest of dangerous insane and feeble-minded persons.

H. B. 228. An Act defining "safety glass" and providing for its use in busses.

H. B. 257. An Act to regulate the use of highways by motor vehicles carrying other vehicles and providing a penalty for violations thereof.

H. B. 173. An Act relating to the construction, extension, or improvement of sewers, disposal plants, and other necessary appurtenances, etc.

H. B. 348. An Act providing for the election of county school Superintendents; fixing their qualifications compensation and term of office; etc.

H. B. 332. An Act providing the method of recording mortgages executed by corporations authorized to operate railroads, etc.

H. B. 334. An Act to amend and re-enact Sec. 883b-3 of the Kentucky Statutes, Carroll's Edition 1938.

H. B. 333. An Act authorizing corporations to borrow money and to execute mortgages to secure the money so borrowed etc.

H. B. 324. An Act amending Sections 1, 2, 3, 4, 5, 6, 7, 9, 10 etc Carroll's Kentucky Statutes, relating to the establishment and operation of credit unions in the Commonwealth of Kentucky.

H. B. 325. An Act relating to the sale and transfer of wages, amending and re-enacting Sec. 4758a-5 of Carroll's Kentucky Statutes, 1936 Edition.

S. B. 18. An Act to amend and re-enact, as amended, Sec. 110 Carroll's Kentucky Statutes, Baldwin's 1936 Revised edition, relative to certain officers who are not permitted to practice law.

H. B. 278. An Act to provide for the purchase of liability and indemnity insurance against negligence of school bus drivers, and authorizing school boards to purchase same.

H. Res. 5. Resolution providing for furnishing Kentucky Directory.

With a Committee Amendment thereto by way of Substitue therefor.

Ordered that said bills and resolutions be read the second time.

The Constitutional provision as to the second reading of said bills and resolutions at length being dispensed with, said bills and resolutions were read the second time by their titles only.

Ordered that said bills and resolutions be placed in the Orders of the Day.

A message was received from the Senate announcing that they had passed bills which originated in this House, entitled:

H. B. 13. An Act to amend and re-enact Sec. 244, Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

H. B. 161. An Act to prohibit the taking, enticing, assisting to escape, or the encouragement to escape of lawfully committed inmates from the State Hospitals for the Insane etc.

With amendments thereto as proposed and adopted by the Senate.

Mr. Hunnicutt moved that said bill with the amendments thereto as proposed and adopted by the Senate, be laid on the Clerk's desk.

Said motion was agreed to.

And that they had passed bills which originated in the Senate, entitled:

S. B. 81. AN ACT to repeal 1917 House Bill No. 43, imposing a license fee upon hat and coat racks and check rooms, and a penalty for violation.

Said bill is as follows, viz.:

WHEREAS, House Bill No. 43 of 1917 was vetoed by the Governor without stating his reasons therefor, as required by section 88 of the Constitution, and said House Bill therefore became a law ten days after the adjournment of the General Assembly of 1917; and

WHEREAS, the General Assembly desires to clarify the law on the subject of hat and coat racks and check rooms:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. House Bill No. 43 of 1917 is repealed.

S. B. 74. AN ACT to amend and re-enact Section 1243 of Carroll's Kentucky Statutes, Annotated, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1243 of Carroll's Kentucky Statutes Annotated, Baldwin's 1936 Revision, be amended and re-enacted so that said section as amended and re-enacted shall read as follows:

Section 1243. *Petit larceny.* Any persons, who shall steal a hog of less value than four dollars, or be guilty of the larceny of money, goods, chattels, or other property of less value than twenty dollars ($20.00) shal be punished by confinement in the county jail for not less than one nor more than twelve months.

S. B. 23. AN ACT relating to primary and general elections, and amending section 1 of Chapter 60 of the Acts of 1938, compiled as section 1456 of Baldwin's Kentucky Statute Service April, 1939, and sections 1565b-7 and 1482 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of chapter 60 of the Acts of 1938, compiled as section 1456 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

1. Certificates of nomination made by the governing authority of a party to fill vacancies in office which may occur and cannot be filled by nomination in a primary election, required by law to be filed with the Secretary of State, shall be filed with the Secretary of State not less than forty days before the day fixed by law for the election of the person in nomination, and such certificates of nomination, required to be filed with the County Court Clerk, shall be filed not less than thirty days before the day fixed by law for the election of the person in nomination.

2. Petition of nominations, required by law to be filed with the Secretary of State, shall be filed at least forty days before the day fixed by law for the holding of Primary elections, and such petitions, required by law to be filed with the County Court Clerk, shall be filed at least thirty days before the day fixed by law for the holding of Primary elections.

3. Provided, that the provisions of paragraph number two hereof shall not apply to the nominations of candidates for municipal offices in cities of the fourth, fifth and sixth class, and/or the nominations of members of the Boards of Education of cities, counties and independent graded school districts.

Petition of nomination of candidates for municipal offices in cities of the fourth, fifth and sixth class, and candidates for members of city and county boards of education and members of the board of education of independent graded school district shall be filed with the County Court Clerk not less than fifteen days before the time fixed by law for the

election of the person in nomination, provided however, where any graded school district comprises parts of two or more counties, said petitions shall be filed with the Secretary of State not less than forty days prior to the day fixed by law for the election of the person in nomination.

§ 2. Section 1565b-7 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

No officer or board authorized by law to issue certificates of nomination or election shall issue such a certificate to any person *until he has filed the statements required by this Act, and neither the Secretary of State nor the county court clerk shall certify the name of any candidate to be placed on the ballot in the general election until the statements have been filed.*

§ 3. Section 1482 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When the hour of four p. m. has arrived the officers shall announce the same at the door of the voting room and close the polls. They shall take charge of the ballot box, at the booth, and in the presence of each other shall place the lock on the small vent in lid and securely lock it, and return the key to the county clerk. Said election officers shall then stamp upon all unused stubs and ballots, with rubber stamp or by writing on the stub and the ballot attached thereto, the word, "unused", and place said stub or ballot book and all other utensils or election material into a linen envelope, to be provided by the county clerk for that purpose, and shall seal with sealing wax across the seal of the envelope and place the county election seal upon said wax, so as to make the letters plainly visible in three different places on said envelope. The officers of election shall immediately deliver the ballot box, stub book and the envelope containing the unused ballots to the county clerk. The judge and the sheriff of election, of opposite faith, shall forthwith convey said ballot box, stub book and envelope to the county clerk's

office, taking his receipt therefor. Said officers shall see that no person other than themselves has access to, or custody of, said ballot box, and they shall each remain in the presence of the other, until said box and envelope is delivered to the county clerk.

And any violation by them of any duty imposed upon them by this section with reference to such conveyance shall render them guilty of a misdemeanor and upon conviction thereof they shall be punished by a fine of not less than five hundred dollars ($500.00), nor more than one thousand dollars ($1,000.00) or imprisonment in the county jail for not less than sixty nor more than one hundred days, or both so fined and imprisoned within the discretion of the jury trying the case. Said officers shall also upon delivery to the county court clerk of the ballot box and the poll books, certificates and the envelope containing the spoiled, mutilated and questioned ballots and the keys to the ballot box, together with the county election seal, each make an affidavit and file it with the county court clerk stating in substance that neither they nor anyone else took from the ballot box while in their custody any ballot or put into it any ballot, or in any manner whatever tampered with the contents of the ballot box and that it and its contents as well as all of the articles delivered by them to the county court clerk were and are in the same identical condition as when taken charge of by them at the closing of the polls, and for any false statement made in such affidavit the one so making it shall be subject to indictment and prosecution for false swearing and punished accordingly.

The ballot box shall remain locked, from the time it leaves the county clerk's office and is returned to said office, and until the county election commissioners shall unlock the same for the purpose of counting the ballots as herein provided.

The county court clerk, upon receiving said ballot box and envelope from the election officers shall receipt for the same and shall place said ballot boxes and envelopes in a

secure and substantial place and shall keep a sufficient guard over said boxes and envelopes in a careful and painstaking manner until all the ballots have been counted by the election commissioners and those acting with them. Provided, that the chairman of each of the two dominant political parties, shall have the right, and each candidate to be voted for, at any election, may designate one or more persons to assist the county clerk and other guards, to guard the safety of the ballots in said clerk's office. The county clerk shall assist the county election commission, and shall act as its clerk in the counting and certifying of the ballots and the results of said election, for which he shall receive compensation to be allowed by the fiscal court.

The County election commission for the purpose of counting the ballots in any primary or general election and the issuing certificates and making a report shall meet at five (5) o'clock p. m. on the same day of any primary or general election in the office of the county clerk or in any other room designated by the election commissioners and proceed as speedily as practical to count the ballots of every precinct in such county and at the finish of each and every precinct they shall announce the results at the door of the room where the count is being conducted and they shall fill out the blank in the back of the stub book provided for that purpose and each commissioner shall sign the same on a blank provided for that purpose.

The election commission is authorized to employ at county expense, such clerical help as said commission may deem necessary to make said count and at the meeting of said commission on the day of election at five (5) o'clock p. m. on said day, as above set out, the commission shall stay in session for the purpose of ascertaining the results of said election until twelve (12) o'clock mid-night of said day and that they may at their discretion adjourn the said tabulation or count of the said ballots until the following day at eight (8)

o'clock a. m., except if the said following day be Sunday or a legal holiday, they may adjourn the said counting and tabulation until the following day succeeding the said Sunday or legal holidays, at their discretion and continue in session, Sundays and legal holiday excepted, at their discretion, until the final result of said election is finally completed.

The election commission, if unable to ascertain the result of the election in any county or fail to complete the count of all the precincts in said county by twelve (12) o'clock midnight on the day of said election, may adjourn the said meeting to another day, the reconvening of said commission shall be at eight (8) o'clock on the day set for reconvening and the count shall proceed during said day until six (6) o'clock p. m., or longer at the discretion of the said commission and each additional day they may be required to complete the said count, shall be at such hours as above set out, provided however, they shall not meet nor tabulate during the Sabbath day.

There shall be provided by the county clerk a large sheet upon which to tabulate the vote of the whole county, district or municipality, so that each candidate can ascertain the number of votes in each precinct and the total number of votes in each precinct and the total number in the election unit, cast for him. If any ballots are found mutiliated, defaced, marked or spoiled or otherwise questionable so that they are of doubtful integrity, the commission shall put all such ballots in a sealed envelope after writing on them and each of them, whether they have been counted and for whom.

In any general or primary election held in this state or any county, district or municipality, the same procedure shall prevail and the county election commission shall count and certify the result in the manner herein provided.

The county election commission shall issue certificates of nomination or election where the successful candidate was voted for by a county or a district less than one county, and

the State Board of Election Commissioners shall issue such certificates where the successful candidate was voted for by the State at large or a district greater than one county. *The State Board of Election Commissioners shall immediately file with the Secretary of State, and the county election commission shall immediately file with the county court clerk, the original copy of all certificates of nomination, sending only duplicate copies to the candidates; but shall forward all certificates of election to the candidates elected, unless the candidate has failed to comply with section* 1565b-4, 1565b-5 *or* 1565b-6.

In all general elections the governing authority of each political party, and in all primary elections, each candidate or group of candidates for an office, may designate to the county election commission, one representative each to meet with the county election commission, as herein provided, and it shall be the duty of said commission to permit said representative to assist in, and witness the count of the ballot in all the precincts in such county and each and all of said commissioners and said representatives, so designated, shall have equal and full opportunity to inspect and count said ballots, and it shall be unlawful for any county election commission or a majority thereof, to refuse to permit said representative to exercise full and free action in witnessing the count of said ballots and any interference with, or refusal, on the part of said election commission, or either of them, to permit said representatives, either of a political party, or of a candidate, or group of candidates, to have a free and full opportunity to witness and observe the counting of said ballots, shall be guilty of a high misdemeanor, and upon conviction thereof shall be fined not less than one thousand dollars nor more than two thousand dollars or imprisoned in the county jail not less than six months nor more than twelve months in the discretion of the jury.

The county election commission after fifteen days, pro-

vided no contest is filed in any race against any candidate, shall return the keys to said ballot boxes to the county court clerk, but if any such contest, either of nominations or elections, has been filed, said commissioners shall hold said keys subject to the orders of the court trying such contest.

This Act, shall govern both the conducting, holding, counting of ballots, and certifying of returns, in general and primary elections.

Nothing herein contained shall be construed to prevent the election commissioners in counties having cities of first, second and third class from employing extra tabulators, who under their supervision and responsibility may expedite the counting of the ballots.

Ordered that said bills be printed and referred.

Mr. Wagner moved that the privilege of the floor be extended to Hon. Edward Pflenger of Covington, Kentucky.

Said motion was agreed to.

The hour of eleven o'clock A. M. having arrived, that being the hour for the Special Orders of the Day, to-wit: House Resolutions Nos. 7, 8, 9, 10, 11 and 12.

The House took up for consideration said resolutions in the order set out below.

H. Res. 7. A RESOLUTION authorizing Malcolm Godsey, Jr., by his statutory guardian, Malcom Godsey, Sr., to sue the Commonwealth of Kentucky, and the State Highway Commission of Kentucky, or either.

With Committee amendments thereto.

Said resolution is as follows, viz.:

WHEREAS, on April 13, 1939, Malcolm Godsey, Jr., an infant, 7 years of age, was walking alongside State High-

way No. 15, near Duane, in Perry County, Kentucky, and was hit and injured by State Highway Maintenance Truck No. 2189, at the time being driven by one Crit Bach, resulting in the breaking and complete fracture of the femur bone of said infant's leg, and the cutting of his head, body, arms, legs and person in divers places, and said infant was confined to the Hazard Hospital and his home for about six months as a result of said injuries, and now has a crooked foot and has sustained permanent and lasting disability as a direct result of said injuries; and

WHEREAS, it is claimed by said Godsey that the driver of said truck operated the same in a reckless and negligent manner, striking said infant at a time when he was off the highway, and that said infant was free of any fault, and

WHEREAS, it is claimed by the said Malcolm Godsey, Sr., guardian of Malcolm Godsey, Jr., that said infant suffered great physical and mental pain and agony, and his power to earn money was greatly diminished and damaged as a direct result of said injury to the extent of $3,000.00.

Now, therefore in order to determine by judicial action, the liability of the Commonwealth of Kentucky and the State Highway Commission of Kentucky for the alleged damages and injury:—

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Malcolm Godsey, Jr., by his statutory guardian, Malcolm Godsey, Sr., be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or either, in the Perry Circuit Court, for such damages, if any, as he may have suffered, by any wrongful injury to said Malcolm Godsey, Jr., by reason of being struck by said truck mentioned herein, and to recover such damages as he may have sustained;

That in any action so brought neither the Commonwealth

of Kentucky nor the State Highway Commission of Kentucky shall be permitted to plead or rely upon any Statute of Limitation provided the action is brought within six months after this resolution becomes effective;

That in the event said Godsey shall recover any judgment against the Commonwealth of Kentucky or the State Highway Commission of Kentucky, it shall not exceed $3,000.00 plus interest and court cost; and either party may appeal as in other civil case;

That such case so brought may be settled and adjusted with the consent of the Attorney General of Kentucky, in the same manner as any other civil case, or such official may settle the same before action brought;

That the amount of any judgment, or of any settlement so made, shall be paid by the Auditor of Public Accounts by warrant on the State Treasurer, same to be charged to the general fund.

Said amendments as proposed by the Committee are as follows, viz.:

1. Amend H. Res. 7 by striking out the following: "shall not exceed $3,000.00 plus interest and court costs" on page 2, section 1, line 14.

2. Amend H. Res. 7 by striking out the following "Auditor of Public Accounts" on page 2, line 20, section 1, and inserting in lieu thereof "Commissioner of Finance."

Said amendments were each agreed to.

Mr. Ward offered the following amendment to said resolution, viz.:

Amend H. Res. 7 on page 2, line 4 of the preamble by striking out the words and figures "to the extent of $3,000.00"

Said amendment was agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	R. R. Ernst	Edward Leslie
J. Everett Bach	Carlos Fallis	W. Paul Lyon
H. T. Baker	Cecil Florence	C. C. May
Wm. T. Beard	Wayne Freeman	Frank C. McElwain
Alvis S. Bennett	Eugene Gough	E. Hayes McMakin
Douglas T. Bolling	Van Y. Greene	Norris McPherson
J. F. Bosworth	Ralph C. Hamilton	G. Sam Milam
W. S. Brim	C. L. Hammons	Stanley C. Moebus
Gus A. Brooks	T. H. Hickey	Davis Moore
Randolph A. Brown	Clyde S. Howard	J. Lee Moore
Haynes Carman	Chester Huffines	Joe T. Morgan
James W. Chapman	John M. Hunnicutt	C. Homer Neikirk
John Coulter	W. H. Hunt	Carl D. Perkins
John H. Cox	J. B. Jarboe, Jr.	B. W. Porter
Pink G. Curd	Chas. X. Jones	Kleber F. Price
F. E. Daugherty	John S. Juett	Hobart Rayburn
Louis B. Dugan	William K. King	Thomas Rigdon
Forest C. Easley	W. A. Lamkin, Jr.	W. H. Riley
D. E. Edwards	Robert E. Lee	Joe E. Robinson

Lyman Roll	G. C. Springate	Porter Wallace
Jack Savage	J. Claude Stacy	Harry F. Walters
Carl Scheben	Ray J. Stengel	Henry Ward
Leon J. Shaikun	Henry Stewart	H. L. Waterfield
Ray O. Shehan	W. St. Clair Stuart	Otis White
Faust Y. Simpson	Otis C. Thomas	James H. Woods
Otto Smither	Erna E. Tyra	
E. T. Sparks	J. Wood Vance	—79

Resolved that the title thereof be as aforesaid.

Mr. Sparks moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House then took up for consideration

H. Res. 8. RESOLUTION authorizing Zill Whitney to file suit against the Commonwealth of Kentucky, and the State Highway Commission, and the Department of Highways, or either.

With Committee amendments thereto.

Said resolution is as follows, viz.:

WHEREAS, it is reported to the General Assembly that on 28th August 1937 on the State Highway No. 81 between Dunmore and Lewisburg, in Muhlenberg County a Road Grader and Truck owned by the Commonwealth of Kentucky and at the time being used and operated on said State Highway by the employees of the State Highway Commission in maintaining said Highway approached from the rear, overtook and ran into wagon driven by Zill Whitney knocking him therefrom and severely injuring him through the alleged carelessness and negligence of the employees of the Kentucky State Highway Commission.

NOW, in order that said Zill Whitney may have his "day in court" to determine by judicial action the question of negligence, if any, causing said injuries aforesaid.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

Zill whitney, or in the event of his death before or during the prosecution of this action to its final conclusion his executor or administrator, be and he is hereby empowered, and authorized to file and prosecute appropriate actions, against the Commonwealth of Kentucky and the State Highway Commission, and the Department of Highways, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, and the Department of Highways, or either, for such injury, if any there be; and in the event any judgment in the action is recovered by said Zill Whitney or same be compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the General Fund. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Said action may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be $5,000.00. The statute of limitations shall not begin to run in favor of Commonwealth of Kentucky until this act becomes effective.

Said amendments as proposed by the Committee are as follows, viz.:

1. Amend H. Res. 8 by striking out the following on page 2, lines 10 and 11: "Auditor of Public Accounts" and inserting in lieu thereof "Commissioner of Finance"

2. Amend H. Res. 8 by striking on page 2, lines 17 and 18 the following: "The limit of liability shall be $5,000.00"

Said amendments were each agreed to.

Mr. Milam moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Pink G. Curd	Clyde S. Howard
J. Everett Bach	F. E. Daugherty	Chester Huffines
H. T. Baker	Louis B. Dugan	John M. Hunnicutt
Wm. T. Beard	Forest C. Easley	W. H. Hunt
Alvis S. Bennett	D. E. Edwards	J. B. Jarboe, Jr.
Douglas T. Bolling	R. R. Ernst	Chas. X. Jones
J. F. Bosworth	Carlos Fallis	John S. Juett
W. S. Brim	Cecil Florence	William K. King
Gus A. Brooks	Wayne Freeman	W. A. Lamkin, Jr.
Randolph A. Brown	Eugene Gough	Robert E. Lee
Haynes Carman	Van Y. Greene	Edward Leslie
James W. Chapman	Ralph C. Hamilton	W. Paul Lyon
John Coulter	C. L. Hammons	C. C. May
John H. Cox	T. H. Hickey	Frank C. McElwain

E. Hayes McMakin	W. H. Riley	Henry Stewart
Norris McPherson	Joe E. Robinson	W. St. Clair Stuart
G. Sam Milam	Lyman Roll	Otis C. Thomas
Stanley C. Moebus	Jack Savage	Erna E. Tyra
Davis Moore	Carl Scheben	J. Wood Vance
J. Lee Moore	Leon J. Shaikun	Porter Wallace
Joe T. Morgan	Ray O. Shehan	Harry F. Walters
C. Homer Neikirk	Faust Y. Simpson	Henry Ward
Carl D. Perkins	Otto Smither	H. L. Waterfield
B. W. Porter	E. T. Sparks	Otis White
Kleber F. Price	G. C. Springate	James H. Woods
Hobart Rayburn	J. Claude Stacy	
Thomas Rigdon	Ray J. Stengel	—79

Resolved that the title thereof be as aforesaid.

Mr. Milam moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. Res. 9. A RESOLUTION appropriating and authorizing the payment to Joe Holcomb of the city of Jenkins, Letcher County, Kentucky, the sum of six hundred fifty-four dollars and forty-four cents for indemnity for cattle destroyed by order of the State Live Stock Sanitary Board.

Said resolution is as follows, viz.:

WHEREAS, Joe Holcomb of the city of Jenkins, Letcher County, Kentucky, was the owner of certain cattle during the fiscal year ending June 30, 1939, which cattle were destroyed by order of the State Live Stock Sanitary Board during said fiscal year, under the provisions of section 63c-7 of Carroll's Kentucky Statutes, 1936 edition, and

WHEREAS, the State Live Stock Sanitary Board awarded indemnity to the said Joe Holcomb to be paid by the

Commonwealth in the sum of six hundred fifty-four dollars and forty-four cents, and

WHEREAS, the said Joe Holcomb has not been paid the sum awarded to him as indemnity because the sums appropriated by the General Assembly for that purpose during that fiscal year were insufficient and sums appropriated for subsequent fiscal years could not lawfully be expended for that purpose, and

WHEREAS, the said Joe Holcomb has been forced to borrow money to replace the cattle so destroyed and the lender is demanding payment,

Now, therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is appropriated out of the General Fund of the Commonwealth the sum of six hundred fifty-four dollars and forty-four cents for the purpose of paying the indemnity due to Joe Holcomb, of the city of Jenkins, Letcher County, Kentucky, and the Department of Finance is directed to draw a warrant on the Treasurer, payable to the said Joe Holcomb, for that purpose.

Mr. Sparks moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
J. Everett Bach	T. H. Hickey	Thomas Rigdon
H. T. Baker	Clyde S. Howard	Joe E. Robinson
Robert E. Barry	Chester Huffines	Lyman Roll
Wm. T. Beard	John M. Hunnicutt	Jack Savage
Alvis S. Bennett	W. H. Hunt	Carl Scheben
J. F. Bosworth	J. B. Jarboe, Jr.	Leon J. Shaikun
W. S. Brim	Chas. X. Jones	Ray O. Shehan
Randolph A. Brown	John S. Juett	Faust Y. Simpson
Haynes Carman	William K. King	Otto Smither
James W. Chapman	W. A. Lamkin, Jr.	E. T. Sparks
John Coulter	Robert E. Lee	G. C. Springate
John H. Cox	Edward Leslie	J. Claude Stacy
Pink G. Curd	W. Paul Lyon	Ray J. Stengel
F. E. Daugherty	C. C. May	Henry Stewart
Stanley S. Dickson	T. B. McConnell	W. St. Clair Stuart
Louis B. Dugan	Frank C. McElwain	Erna E. Tyra
D. E. Edwards	E. Hayes McMakin	J. Wood Vance
R. R. Ernst	Stanley C. Moebus	S. J. Wagner
Carlos Fallis	Davis Moore	Porter Wallace
T. P. Fitzpatrick	Joe T. Morgan	Harry F. Walters
Wayne Freeman	C. Homer Neikirk	H. L. Waterfield
Eugene Gough	Carl D. Perkins	Otis White
Van Y. Greene	B. W. Porter	James H. Woods
Ralph C. Hamilton	Kleber F. Price	—74

Resolved that the title thereof be as aforesaid.

Mr. Sparks moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. Res. 10. A RESOLUTION authorizing James V.

Chaney to sue the Commonwealth of Kentucky and the State Highway Commission or either.

With Committee amendments thereto.

Said bill is as follows, viz.:

WHEREAS, on the 17th day of August, 1938, a dump truck owned by State of Kentucky or its State Rural Highway Department being carelessly and negligently driven, operated and controlled by an employee of said Highway Department was backed off a new highway then under construction and down a bank, in Whitley County, Kentucky, and struck James V. Chaney who was standing about ten (10) feet away from said highway, knocking him down and under said truck, thereby allowing the truck to run into or over his body, and said James V. Chaney was thereby seriously injured and sustained broken and dislocated bones and divers injuries.

WHEREAS, James V. Chaney has sustained serious and permanent injuries by reason of alleged carelessness and negligence of an employee of the State Highway Department in the conduct of the business of the State of Kentucky.

NOW, in order that James V. Chaney may have his day in court to determine by judicial action the question of negligence, if any, of the employee of the State Highway Commission of the State of Kentucky causing said injuries aforesaid:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That James V. Chaney in his own right and name be and is hereby empowered and authorized to file and prosecute an appropriate action against the Commonwealth of Kentucky and the State Highway Commission of Kentucky or either, for such injuries, if any there be, and in the event any judgment is recovered by James V. Chaney, or same is compromised or settled, same shall be paid by the Auditor of

Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the liability claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil suit.

§ 3. Said action may be brought and prosecuted in Whitley County, or any county in Kentucky, having jurisdiction of the parties and subject matter. The limit of liability as to James V. Chaney shall be six thousand ($6,000.00) dollars.

Said amendments as proposed by the Committee are as follows, viz.:

1. Amend H. Res. 10 by striking out the following on page 2, section 3, lines 16 and 17: "The limit of liability as to James V. Chaney shall be six thousand ($6,000.00) dollars"

2. Amend H. Res. 10 by striking out the following on page 2, section 1, lines 6 and 7: "Auditor of Public Accounts" and inserting in lieu thereof "Commissioner of Finance"

Said amendments were each agreed to.

Mr. Hammons moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same

being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. H. Hickey	Thomas Rigdon
J. Everett Bach	Clyde S. Howard	W. H. Riley
H. T. Baker	Chester Huffines	Joe E. Robinson
Wm. T. Beard	John M. Hunnicutt	Lyman Roll
Alvis S. Bennett	W. H. Hunt	Jack Savage
Douglas T. Bolling	J. B. Jarboe, Jr.	Carl Scheben
J. F. Bosworth	Chas. X. Jones	Leon J. Shaikun
W. S. Brim	John S. Juett	Ray O. Shehan
Gus A. Brooks	William K. King	Faust Y. Simpson
Randolph A. Brown	W. A. Lamkin, Jr.	Otto Smither
Haynes Carman	Robert E. Lee	E. T. Sparks
James W. Chapman	Edward Leslie	G. C. Springate
John Coulter	W. Paul Lyon	J. Claude Stacy
John H. Cox	C. C. May	Ray J. Stengel
Pink G. Curd	Frank C. McElwain	Henry Stewart
F. E. Daugherty	E. Hayes McMakin	W. St. Clair Stuart
Louis B. Dugan	Norris McPherson	Otis C. Thomas
Forest C. Easley	G. Sam Milam	Erna E. Tyra
D. E. Edwards	Stanley C. Moebus	J. Wood Vance
R. R. Ernst	Davis Moore	Porter Wallace
Carlos Fallis	J. Lee Moore	Harry F. Walters
Cecil Florence	Joe T. Morgan	Henry Ward
Wayne Freeman	C. Homer Neikirk	H. L. Waterfield
Eugene Gough	Carl D. Perkins	Otis White
Van Y. Greene	B. W. Porter	James H. Woods
Ralph C. Hamilton	Kleber F. Price	
C. L. Hammons	Hobart Rayburn	—79

Resolved that the title thereof be as aforesaid.

Mr. Hammons moved that the vote by which said resolu-

tion was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. Res. 11. RESOLUTION—Payment of doctor's and hospital bills of Alford Lawson.

With Committee amendments thereto.

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, on August 4, 1938, in Fleming County, Kentucky, a State Highway truck, while being used in the construction and repair of a State road was operated in such a manner as to suddenly be backed against and over Alford Lawson of Fleming County, whereby the said Alford Lawson was severely injured, whereby he was confined to the Hayswood Hospital in Maysville, Kentucky, from August 5 to August 22, 1938, where he incurred necessary hospital expenses in the sum of $90.50, and whereby he incurred necessary medical care rendered by Dr. C. McGuire in the sum of $150.00, and,

WHEREAS, under present laws the said Hayswood Hospital and Dr. C. McGuire have no means of being reimbursed for the service rendered to the said Alford Lawson;

Now, therefore, be it resolved by the Commonwealth of Kentucky, that the Auditor of Public Accounts is directed to draw his warrant upon the State Treasurer for the sum of $90.50 in favor of Hayswood Hospital, Maysville, Kentucky, and to draw his said warrant for the sum of $150.00 in favor of Dr. C. McGuire, Maysville, Kentucky.

Said amendment as proposed by the Committee is as follows, viz.:

Amend H. Res. 11 on page 1, section 1, line 2 by striking out "Auditor of Public Accounts" and inserting in lieu therefor "Commissioner of Finance"

Said amendment was agreed to.

Mr. Ward offered the following amendment to said resolution, viz.:

Amend H. Res. 11 by adding the following in the enacting clause after the word "the" and before the word "Commonwealth" "General Assembly of the"

Said amendment was agreed to.

Ordered that said resolution be engrossed and read the the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Randolph A. Brown	R. R. Ernst
J. Everett Bach	Haynes Carman	Carlos Fallis
H. T. Baker	James W. Chapman	T. P. Fitzpatrick
Robert E. Barry	John Coulter	Wayne Freeman
Wm. T. Beard	John H. Cox	Eugene Gough
Alvis S. Bennett	Pink G. Curd	Van Y. Greene
Sterling B. Blake	W. Q. Daniel	Ralph C. Hamilton
J. F. Bosworth	F. E. Daugherty	T. H. Hickey
W. S. Brim	Louis B. Dugan	Clyde S. Howard
C. J. Bronston	D. E. Edwards	Chester Huffines

W. H. Hunt	Joe T. Morgan	J. Claude Stacy
J. B. Jarboe, Jr.	Carl D. Perkins	Ray J. Stengel
Chas. X. Jones	B. W. Porter	Henry Stewart
John S. Juett	Kleber F. Price	W. St. Clair Stuart
William K. King	Hobart Rayburn	Erna E. Tyra
Robert E. Lee	Thomas Rigdon	J. Wood Vance
W. A. Lamkin, Jr.	Joe E. Robinson	Walter R. Vansant
Edward Leslie	Jack Savage	S. J. Wagner
W. Paul Lyon	Carl Scheben	Porter Wallace
C. C. May	Leon J. Shaikun	Harry F. Walters
E. Hayes McMakin	Ray O. Shehan	H. L. Waterfield
Stanley C. Moebus	Faust Y. Simpson	Otis White
John B. Mollette	Otto Smither	James H. Woods
Davis Moore	E. T. Sparks	
J. Lee Moore	G. C. Springate	—74

Resolved that the title thereof be as aforesaid.

Mr. Rigdon moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. Res. 12. RESOLUTION authorizing John Cox of Pomeroyton, Menifee County, Ky., to sue the Commonwealth of Kentucky and/or the State Highway Commission.

With a Committee amendment thereto.

Said resolution is as follows, viz.:

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, the State Highway Commission, through its employes and agents, while constructing and doing road work on the (Trimble Bend Road) and intersecting to State High-

way No. 40, in Menifee County, Kentucky, and while exploding dynamite at said place, caused damage to the store building and its contents owned by said John Cox in the approximate sum of $100.75.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That John Cox, Pomeroyton, Kentucky, be and is hereby and empowered and authorized to institute suit against the Commonwealth of Kentucky and the State Highway Commission, and/or either for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Highway Commission, or either, for such damage if any there be, arising from the damage and injury to his said store building, and its contents; and in the event any judgment is recovered or same is compromised or settled the judgment or amount agreed on, if any, shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Said action may be brought in Menifee County. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and agreed judgment entered with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Said amendment as proposed by the Committee are as follows, viz.:

Amend H. Res. 12 on page 2, section 1, line 9 by striking out the following: "Auditor of Public Accounts" and inserting in lieu thereof the words "Commissioner of Finance"

Said amendment was agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Wayne Freeman	G. Sam Milam
J. Everett Bach	Eugene Gough	Stanley C. Moebus
H. T. Baker	Van Y. Greene	Davis Moore
Wm. T. Beard	Ralph C. Hamilton	J. Lee Moore
Alvis S. Bennett	C. L. Hammons	Joe T. Morgan
Douglas T. Bolling	T. H. Hickey	C. Homer Neikirk
J. F. Bosworth	Clyde S. Howard	Carl D. Perkins
W. S. Brim	Chester Huffines	B. W. Porter
Gus A Brooks	John M. Hunnicutt	Kleber F. Price
Randolph A. Brown	W. H. Hunt	Hobart Rayburn
Haynes Carman	J. B. Jarboe, Jr.	Thomas Rigdon
James W. Chapman	Chas. X. Jones	W. H. Riley
John Coulter	John S. Juett	Joe E. Robinson
John H. Cox	William K. King	Lyman Roll
Pink G. Curd	W. A. Lamkin, Jr.	Jack Savage
F. E. Daugherty	Robert E. Lee	Carl Scheben
Louis B. Dugan	Edward Leslie	Leon J. Shaikun
Forest C. Easley	Paul W. Lyon	Ray O. Shehan
D. E. Edwards	C. C. May	Faust Y. Simpson
R. R. Ernst	Frank C. McElwain	Otto Smither
Carlos Fallis	E. Hayes McMakin	E. T. Sparks
Cecil Florence	Norris McPherson	G. C. Springate

J Claude Stacy	Erna E. Tyra	H. L. Waterfield	
Ray J. Stengel	J. Wood Vance	Otis White	
Henry Stewart	Porter Wallace	James H. Woods	
W. St. Clair Stuart	Harry F. Walters		
Otis C. Thomas	Henry Ward		—79

Resolved that the title thereof be as aforesaid.

Mr. Stacey moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now recess until the hour of one o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Freeman moved that Judge Gardner of Mayfield, Kentucky be extended the privilege of the floor.

Said motion was agreed to.

Mr. Daugherty moved that Judge Gardner be invited to address the House.

Said motion was agreed to.

Thereupon Judge Gardner was escorted to the Clerk's desk where he addressed the House briefly.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 210. AN ACT repealing and re-enacting Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised

Edition, regarding officers in primary elections, and confining to bona fide candidates the written notice and designation of election officers, with procedure to determine same and providing penalties for wrongful interference with procedure.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, be and it is hereby repealed and re-enacted so that same when re-enacted shall read as follows, to-wit:—

Section 1550-22. Officers of election for the primary shall be appointed by the county board of election commissioners as provided by law in the case of the November elections: Provided, That the lists of names selected by the several party committees shall be submitted to said board not less than fifteen days before the holding of the primary and shall be open to inspection thereafter; and provided, that bona fide candidates before the primary shall be entitled, if they so desire, to unite regardless of party, in designating the names of persons to be appointed officers of election, under the rules hereinafter laid down. All designations of persons selected by said bona fide candidates for appointment shall be made by written notice to said board, delivered to any member thereof, not later than twenty days before said primary. Any group of twenty-five per cent. (25%) of all such candidates before the primary shall be entitled to have appointed as an election officer one person in each precinct for which a name is so submitted. In cases where names are so designated for several precincts, the persons so designated shall be appointed in equal proportion to the offices of clerk, sheriff and judge in the different precincts. In like manner, fifty per cent. (50%) of all such candidates before the primary shall be entitled to designate two persons to be appointed officers of election in

each precinct. In such cases one of the persons so designated shall be appointed clerk of the election in one-half of the precincts for which names are so designated. If seventy-five per cent. (75%) of all such candidates so unite they shall be entitled to designate three persons to be appointed officers of election in each precinct, and one of the persons so designated shall be appointed clerk of election in each of three-fourths of all precincts for which names are so designated; and all such candidates by so uniting shall be entitled to the appointment of four officers of election in each precinct for which names are thus designated.

In cases where such candidates unite in the selection of persons to be appointed officers of election, as herein provided, the lists of names submitted by the party committees shall be treated by the board of election commissioners as follows: If only one group of twenty-five per cent (25%) of such candidates unite in selecting one person to be appointed an officer of election in each precinct so designated, said board shall appoint only one officer of election for such precinct or precincts from the list submitted by the committee of that party whose candidates form a majority of the signers of such written designation. If the signers of such list are divided equally between the parties, then the lists of names submitted by each party committee shall have chosen from it only one name for an officer of election in every other precinct among those for which names are thus designated. If two groups of twenty-five per cent. (25%) or one group of fifty per cent. (50%) of all such candidates so unite in designating persons to be appointed officers of election in one or more precincts, the remaining officers in such precincts, shall be selected equally from the lists of the several party committees. In the event that seventy-five per cent. (75%) of all such candidates unite to procure the appointment of election officers in one or more precincts, or if three groups of twenty-five per cent. (25%) of the candidates, or one group of fifty per cent. (50%) and another of twenty-five per cent. (25%) of such candidates

submit names under the provisions of this section, the remaining officer of election in each of such precincts shall be chosen alternately from the lists of the different party committees.

All persons who are to act as election officers shall be appointed by said board in accordance with the foregoing provisions, and the list of officers of election with the office to which each person is appointed shall be made up and open to inspection by any candidate, not later than the noon on the Saturday preceding the day of the primary.

The duties herein provided shall be enforceable against said county board of election commissioners, on the petition of any candidate, by the writ of mandamus. Proceedings in such cases shall be instituted in the circuit court. The proceedings shall be summary and without delay, and the orders of the court shall be final and not appealable.

A "bona fide" candidate in this Act means one who is seeking nomination according to law, who honestly seeks the office for which he announces, who expects to make a campaign for the office and who is not supported by any group or faction who through the support of this candidate seeks to promote the welfare of another.

Any candidate or member of the County Election Commission may question the bona fides or good faith of any candidate by summary proceedings consisting of a motion before the Circuit Court if in session, or Circuit Judge in vacation, of the district in which the county is located, upon three days' notice to the candidate whose good faith is questioned, which motion shall be tried summarily and without delay before said Court or Judge, and a hearing before said Judge shall be considered a special term for said purpose, and the proof may be heard orally and upon motion of either party may be officially reported; and in any action or proceeding to compel the County Election Commission to appoint election officers in accordance with any designation made by a group, or groups, of candidates as provided in this Act, the Circuit

Judge presiding is hereby authorized and empowered to ascertain and determine whether any candidate whose name appears on a list of candidates for the purpose of designating election officers is a bona fide candidate.

In any action or proceeding authorized herein the burden of proof as to the bona fides of a candidate shall be on the party asserting or claiming such bona fides.

If the Court finds the candidate is not a bona fide candidate it must so order and certify same to the election commission and said candidate's name shall be stricken from the written notice and designation of election officers filed with said Commission as herein provided and not counted in the percentage provisions required herein, or may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and subject to a motion to set aside same in the Court of Appeals, which shall be heard by said Court or a Judge thereof as is provided by law for dissolving or granting injunctions, except that said motion must be made before said Court or Judge of the Court of Appeals within five days after the entry of the order in the Circuit Court and can be heard and tried upon the original papers and the order of the Appellate Court or Judge thereof shall be final.

If any candidate or person approach the Circuit Court or a Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him he shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty ($20.00) Dollars nor more than five hundred (500.00) dollars, or imprisoned in the county jail not less than one nor more than six months, or both fined and imprisoned in the discretion of the Judge or jury trying the same, and may also be proceeded against for contempt.

Mr. Joe E. Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 210 on page 1, line 8 by striking out the word "fifteen" and inserting in lieu thereof the word "twenty"

2. Amend H. B. 210 on page 2, line 15 by striking out the word "twenty" and inserting in lieu therefor the word "fifteen"

3. Amend H. B. 210 on page 4, line 91 by striking out the word "party" and inserting in lieu therefor the word "person"

Said amendments were each agreed to.

Mr. Joe Robinson moved that said bill be made a Special Order of the Day, for Wednesday, February 14, at two o'clock P. M.

Said motion was agreed to.

Mr. Robinson moved that bills entitled:

H. B. 211. An Act repealing and re-enacting Sec. 1550-6 Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, governing nominating papers and etc.

H. B. 212. An Act repealing and re-enacting Sec. 1550-23 Carroll's Kentucky Statutes, regarding the appointment of challengers and inspectors in primary elections.

Be made Special Orders of the Day, for Wednesday, February 14, at two o'clock P. M.

Said motion was agreed to.

The following bills and resolutions were introduced, viz.:

By Mr. Freeman.

H. Res. 69. RESOLUTION authorizing Harry D. Nance to sue the Commonwealth of Kentucky or the Department of Highways, or both.

Said resolution is as follows, viz.:

WHEREAS, it is alleged that, on or about February 17th, 1939, Harry D. Nance of Graves County, Kentucky was operating a motor truck, of which he was the owner, upon State Highway No. 121 in the village of Farmington, Graves County, Kentucky; and,

WHEREAS, it is alleged that at said time and place a motor truck owned by the Commonwealth of Kentucky or by the Department of Highways, and at that time engaged in its service, was also being operated upon said highway by an employee of the Department of Highways in and about the business of the Department of Highways, and was so carelessly and negligently operated as to run over, against and upon the motor truck of Harry D. Nance; and,

WHEREAS, it is alleged that, as a direct and proximate result of the negligence and carelessness of the operator of said highway truck, Harry D. Nance received severe wounds and injuries to his person and was, and is, permanently injured and his powers to earn money has been permanently reduced, and he incurred considerable expense incident to the treatment of his injuries and his said motor truck was injured and damaged; now therefore:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. Harry D. Nance is hereby authorized to sue the Commonwealth of Kentucky or the Department of Highways, or both for such sum as will fairly and reasonably compensate

him for the injuries and damages, if any, sustained by him as a direct and proximate result of the negligence, if any, of the operator of said State Highway truck, not exceeding, however, the sum of $7,500.00 for personal injuries and the sum of $350.00 for property damage.

§ 2. The action herein authorized may be brought in the Graves Circuit Court, same being the Circuit Court having jurisdiction in Graves County, the county where Harry D. Nance resides and in which the injuries and damages were incurred. Suit shall be commenced within one year from the effective date of this Resolution, and no plea of limitation shall be interposed if suit is commended within that time.

§ 3. Any party to said action may appeal from the judgment of the Graves Circuit Court to the Court of Appeals as in any other civil suit, and the suit may be settled and adjusted with the consent and approval of the Attorney General in the same way as any other civil action may be settled or adjusted. If recovery is had, by suit or compromise, the amount so adjudged or compromised shall be paid by the State Treasurer out of the General Fund, on warrant drawn upon him by the Department of Finance.

By Same.

H. Res. 70. RESOLUTION authorizing the Illinois Oil Company, a corporation, to sue the Commonwealth of Kentucky and the Department of Highways for damages.

Said resolution is as follows, viz.:

WHEREAS, it is alleged that on the 17th day of February, 1939, State Highway Truck No. T-2128 struck and damaged beyond repair two gasoline pumps and a sign and pole assembly installed in front of the place of business of William Cloys at Farmington, in Graves County, Kentucky, and

WHEREAS, it is alleged that this damage necessitated

the expenditure of the sum of $331.00 by the Illinois Oil Company as is set out in itemized statements submitted by them; therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Illinois Oil Company is authorized to institute suit against the Commonwealth of Kentucky and the Department of Highways to recover an amount not in excess of $331.00, for damages alleged to have been done to its equipment by a truck belonging to the Department of Highways. Suit shall be filed in Graves County in the Graves Circuit Court, and in the event any judgment is recovered by the Illinois Oil Company or the suit is compromised or settled, the amount recovered or agreed upon shall be paid by the Treasurer of the Commonwealth of Kentucky, out of the General Fund, on warrant drawn upon him by the Department of Finance.

§ 2. Any action began under this resolution may be settled or compromised by the Attorney General in the same manner as any other civil suit.

By Mr. Savage.

H. B. 362. AN ACT to repeal Chapter 31 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1922, now Sections 1376j-1-2-3 of Carroll's Kentucky Statutes, Annotated, Baldwin's 1936 Revision, which Act was entitled as follows: "AN ACT making it unlawful for any person, firm or corporation employing others in any city of the first class in this Commonwealth, to adopt or establish or use any daylight saving or other standard of time with reference to such employment, other than the Standard Central Time of the United States, and providing penalty therefor."

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 31 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1922, now Sections 1376j-1-2-3 of Carroll's Kentucky Statutes, Annotated, Baldwin's 1936 Revision, being an Act entitled as follows: "An Act making it unlawful for any person, firm or corporation employing others in any city of the first class in this Commonwealth, to adopt or establish or use any daylight saving or other standard of time with reference to such employment, other than the Standard Central Time of the United States, and providing penalty thereof." be and the same hereby is repealed.

By Mr. Wagner.

H. B. 363. AN ACT to amend "The City Planning and Zoning Law" applicable to cities of the second class, being Sections 3245f-1 to 3235f-13 of Baldwin's Revision of Kentucky Statutes, adding penalties for transfering lots in unapproved subdivisions, and for recording plats without approval of the Planning Commission.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Act entitled "The City Planning and Zoning Law" applicable to cities of the second class, being Sections 3235f-1 to 3235f-13 of Baldwin's Revision of Kentucky Statutes, be amended so as to provide penalties for transferring lots in unapproved subdivisions, and for recording plats without approval, by the addition to said Act of the following sections, viz.:

§ 2. Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells, or

agrees to sell or negotiates to sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the planning commission and recorded or filed in the office of the appropriate county clerk, shall forfeit and pay a penalty of $100.00 for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The municipal corporation may enjoin such transfer or sale or agreement by action for injunction brought in any court or equity jurisdiction or may recover the said penalty by civil action in any court of competent jurisdiction.

§ 3. A county clerk who files or records a plat of a subdivision without the approval of the planning commission as required by law shall be deemed guilty of a misdemeanor and shall be fined not less than $100.00 nor more than $500.00.

§ 4. All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Ernst.

H. B. 364. AN ACT to require persons, firms or corporations engaged in the buisness of financing loans on property, goods, wares or merchandise sold by dealers thereof to purchasers on credit, to pay interest on the holdbacks or reserves that may be due or owing to such dealers in such goods, wares or merchandise; and to require said persons, firms or corporations so engaged in financing such loans to furnish said dealers semi-annual reports covering all transactions relating to the holdback and reserve accounts of such dealers and providing a penalty for the violation of this act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That all persons, firms or corporations engaged in the business of financing loans on property, goods, wares or merchandise sold by dealers thereof to purchasers on credit, shall pay interest at the rate of two and one-half per cent (2½%) per annum on holdbacks or reserves or other monies withheld from the dealers from whom such goods, wares or merchandise have been purchased, under the contracts which said persons, firm or corporation have made with respect to financing such purchases on credit, said interest to be paid such dealers semi-annually on the first of January and the first of July of each year.

§ 2. That such persons, firms or corporations engaged in making such loans shall furnish each dealer as of January first of each year, a report showing the status of such dealers reserve or holdback account.

§ 3. That any amount withheld by said persons, firm or corporation engaged in making said loans shall become due and payable immediately upon the close of any loan account.

§ 4. Any person, firm or corporation engaged in making loans as hereinabove described who shall fail to comply with the provisions of this Act shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than $10.00 nor more than $50.00 for each separate offense.

By Mr. Shaikun.

H. B. 365. AN ACT to repeal, amend, and re-enact Section 4077 Carroll's Kentucky Statutes, 1939 Supplement, being Chapter 4, Section 8 of the Acts of the First Extraordinary Session of the General Assembly of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Kentucky Statute Section 4077 Carroll's Kentucky Statutes, 1939 Supplement, being Chapter 4, Section 8 of the Acts of the First Extraordinary Session of the General Assembly of 1938 be repealed, amended, and re-enacted so that when re-enacted said Section shall read as follows:

Assessment of public service companies: Every railway company, gas company, water company, ferry company, bridge company, street railway company, express company, electric light company, electric power company, telephone company, telegraph company, press dispatch company, bus line company, common carrier trucking company, air transport company, palace car company, dining car company, sleeping car company, chair car company, tank car company, coal car company, pipe line company, and every other like company or business performing any public service, shall, in addition to the other taxes imposed on it by law, annually pay a tax on its franchise to the State, and a local tax thereon to the county, incorporated city, town and taxing district, wherein its franchise may be exercised.

The property of such tax payers shall be classified as operating tangible, franchise, non-operating tangible and non-operating intangible.

Non-operating intangibles within the taxing jurisdiction of the Commonwealth shall be taxable for State purposes only at the same rate as the intangible property of other taxpayers not performing public services, and tangible property whether operating or non-operating shall be subject to State and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

Except as may be otherwise provided by law, the Department of Revenue shall have sole power to value and assess all of the property, including the franchise, of every corporation,

company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating or non-operating tangible or non-operating intangible, or franchise values have heretofore been assessed by said Department, and shall apportion such assessments of franchise as provided by section 4081 of the Statutes and shall certify tangible property to the counties, cities, towns and taxing districts where said property is situated. Provided, however, that in the case of a taxpayer whose business is predominantly non-franchise and the franchise or public service business in which he is engaged is merely incidental to his principal business, the Department shall in the exercise of its judgment and discretion, determine from evidence which it may have or obtain, what portion of the capital and property is devoted to the public service business subject to assessment by the Department under this Act, and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Nothing herein shall be construed to repeal, amend, or modify the powers of any city of the first class to assess such property for city tax purposes.

By same.

H. B. 366. AN ACT to repeal, amend, and re-enact Section 2980 of Kentucky Statutes, Carroll's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2980 of Kentucky Statutes be repealed, amended, and re-enacted so that when re-enacted said Statute shall read as follows:

Section 1. Each city of the first class shall raise a revenue from an ad valorem tax, not to exceed the rates and

limits prescribed by the Constitution on all real and tangible personal property within the corporate limits of such city.

Section 2. For such taxing purposes each city of the first class is hereby authorized to provide each year for the assessment of all real and tangible personal property within such city, and in addition to the ad valorem tax herein provided for, each city of the first class may, raise a revenue, from a license tax upon any trade, occupation or profession, or upon any article or thing.

Section 3. Pursuant to Section 181a of the Constitution of Kentucky, each city of the first class may provide for the payment of license fees or a special or excise tax for municipal purposes, on personal property, tangible and intangible, based upon income, license, or franchise, in lieu of an ad valorem tax thereon. Provided, no city of the first class shall omit the imposition of any ad valorem tax on any such property of any steam railroad, street railway, ferry, bridge, gas, water, heating, telephone, telegraph, electric light or electric power company, or any other company, corporation, firm, individual, or association having or exercising any special privilege or franchise or performing any public service not allowed by law to natural persons.

Section 4. Provided, however, any city of the first class may levy a license tax in lieu of a franchise tax upon any company, corporation, firm, individual, or association having or exercising any special privilege or franchise or performing any public service not allowed by law to natural persons.

Section 5. All taxes and license fees shall be levied or imposed by ordinance, and the purpose or purposes for which the same are levied or imposed shall be specified therein, and the revenue therefrom shall be expended for no other purpose than for which it was collected.

Section 6. All ad valorem taxes shall be collected by the tax receiver, and all license taxes, including all taxes on per-

sonal property, tangible or intangible, based on income, license, or franchise, levied in lieu of an ad valorem tax, shall be collected by the Secretary-Treasurer of the Commissioners of the Sinking Fun; provided that all license tax so collected by the Secretary-Treasurer of the Commissioners of the Sinking Fund in lieu of an ad valorem tax shall be paid by him monthly to the Director of Finance, and the said Secretary-Treasurer shall furnish monthly to the Director of Finance a statement showing what persons, firms, or corporations have, during the previous month, paid such license tax, the amount paid by each and the total amount paid by him to the Director of Finance.

Section 7. The provisions of this Act are several. If any provisions, section, paragraph, or the application of any section, provision, or paragraph should be held invalid, such decision shall not affect or impair the remainder of the Act.

Section 8. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

By Mr. Shaikun.

H. B. 367. An Act to repeal, amend and re-enact Sec. 2984a-1 through 2984a-13 Kentucky Statutes, Carroll's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 2984a-1 through 2984a-13 be repealed, amended, and re-enacted so that when re-enacted said Statute shall read as follows:

§ 1. *Definitions.* Where used in this Act, the term "Person" includes any individual, firm, co-partnership, joint-venture, association, corporation (domestic or foreign) trust, estate, receiver, or any other group or combination acting as a unit.

§ 2. Every person having or exercising any special privilege or franchise or performing any public service not allowed by law to natural persons shall, in addition to other taxes imposed on such person by law, pay a tax on his franchise to the city, to the extent and in the proportion the franchise is therein exercised.

§ 3. In order to determine the value of the franchise mentioned in the next preceding Section, each such person shall annually, between the first day of July and the first day of August, make and deliver to the City Assessor a statement verified by its chief officer, on such forms as the City Assessor may prescribe, showing the following facts: The name and principal place of business of the person; the kind of business engaged in; the amount of capital stock preferred and column, the number of shares of each, the par and real value thereof; the highest price at which such stock was sold at a bona fide sale in the preceding calendar year; the total amount of indebtedness as principal; the amount of surplus funds and undivided profits, and the value of all other assets; the amount of gross receipts derived from the conduct of the business; the gross and net income, the amount and kind of tangible property and where situated, assessed, or liable to assessment; and the fair cash value thereof; and such other information as the City Assessor may require.

§ 4. If the person operates or conducts his business in and out of thte city, the statement shall show the following facts in addition to the facts hereinabove required: The gross receipts derived from the conduct of the business in the city, and the entire gross receipts of the person derived from the conduct of business in and out of the city during the preceding calendar year.

Such persons shall also file annually with the City Assessor a certified copy of the annual statement submitted by such persons to their stockholders and in addition thereto, a copy of such statements required to be submitted to the Public

Service Commission of Kentucky, the Federal Power Commission, and the Securities and Exchange Commission.

§ 5. From such statements and such other information as the City Assessor may acquire, the City Assessor shall determine and fix the capital stock value of such persons in the following manner:

(a) the Assessor shall determine the capital stock value from the total value of such person's common and preferred stock, bonded indebtedness, surplus, and undivided profits.

(b) The Aessessor shall capitalize the net earnings of such persons as reflected by the books of such persons for the preceding calendar year, at six per cent.

(c) The Assessor shall average the capital-stock value established by (a) and (b), and the same shall be the capital-stock value of such persons.

Where any such person conducts his business both in and out of the city, the capital-stock value within the city shall be the same proportion of the capital-stock value of any such person as the gross receipts derived from business conducted within tthe city is of the total gross receipts of any such person.

From such capital-stock-value located within the city, the City Assessor of any city of the first class shall deduct the assessed value of the tangible property liable to assessment located within the city, and the remainder shall be the franchise value of any such person for city tax purposes.

§ 6. It shall be the duty of the City Assessor, immediately after fixing such values, to notify the person of the fact; and all such persons shall have thirty days from the time of receiving the notice to go before the Board of Equalization of any such city and ask a change of the valuation and may introduce evidence. When any complaint is heard by the Board of Equalization, the burden of proof shall be upon the person complaining to show that the property has been assessed beyond its value.

The Board of Equalization, after hearing such complaint shall, according to the justice of the case, approve, reduce, or raise the assessment. Any person feeling himself aggrieved by any action of the Board of Equalization may appeal to the Circuit Court within thirty days after the action of the Board, by filing with the Circuit Court a copy, under the hand of the City Assessor, of the action of the Board, and any such person shall have the right to appeal from the decision of the Circuit Court to the Court of Appeals in the same manner as the law now allows appeals in civil cases. If the City Assessor feels that the city has been aggrieved by the action of the Board of Equalization, the city shall have the right to appeal from the decision of the Board to the Circuit Court and to the Court of Appeals in a like manner.

§ 7. The City Assessor shall make out and authenticate the tax bill on the assessments of franchises, as provided in this Act, as well as on all assessments hereafter made by the Board of Equalization, which shall have the same effect as tax bills made out and authenticated by him on assessments of other property, and shall list the same with the tax receiver for collection, and said tax bills shall be due and payable at the same time, subject to the same discounts and penalties, and be collectible by distraint, garnishment and suit, as now provided by law with respect to other tax bills due the city.

§ 8. Any person subject to the provisions of this Act willfully failing or refusing to make the reports required by this Act shall be deemed guilty of a misdemeanor, and for such offense shall be fined one hundred dollars ($100.00) and twenty-five dollars ($25.00) for each day the same is not made after October first of each year, to be recovered by civil action in the name of the city in the Circuit Court of the county in which such city is situated.

§ 9. Should any person subject to the provisions of this Act fail to make a report as required herein on or before this first day of September of each year, the City Assessor shall

proceed to ascertain the facts and values as required by this Act, in such manner and by such means as he deems proper, and shall fix the value of tthe franchise liable for taxation as provided by this Act, and the person shall be taxed accordingly.

§ 10. The provisions of this Act are several. If any provision, section, paragraph, or the application of any provision, section, or paragraph of this Act to any taxpayer should be held invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent to tax separately each person contemplated by the provisions of this Act.

§ 11. So much of Kentucky Statutes 4077, being Chapter 4, Section 8, of the Acts of the First Extraordinary Session of the General Assembly of 1938, as is in conflict with the provisions of this Act is hereby repealed to the extent of such conflict, and all other acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

By Mr. Bennett.

H. B. 368. An Act to amend Sec. 583 of Carroll's Kentucky Statutes, 1936 Edition, as amended by Chapter 135 of the Acts of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 583 of Carroll's Kentucky Statutes, 1936 Edition, as amended by Chapter 135 of the Acts of 1938, is amended to read as follows:

Section 583. Indebtedness of person to; highest amount permitted; certain bills of exchange not included.—No bank shall permit any of its stockholders, or any person, company or firm, including in the liability of the company or firm the

liability of the individual members thereof, directly or indirectly, to become indebted and/or obligated as guarantor or surety to it in a sum exceeding twenty per cent of its capital stock actually paid in and its actual amount of surplus, unless such borrower, guarantor or surety, pledge with it good collateral security, or execute to it a mortgage upon real or personal estate, which at the time is of more than the cash value of such loan, indebtedness and/or obligation above all other encumbrances, and if borrower is a director or officer of such bank he shall not be permitted to become indebted and/or obligated as guarantor or surety to it in excess of ten per cent of its paid-up capital stock, without securing the excess by the mortgage or pledge of real or personal property double in value the amount of such excess; and in no event shall the indebtedness and/or obligation of any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, exceed thirty per cent of its paid-up capital and actual surplus. Any loan made, and/or obligation entered into, for the benefit of a person, company or firm shall be included in the total liabilities of the person, company or firm. Provided that the discount of bills of exchange drawn against actually existing value and the purchase or discounting of commercial or business paper actually owned by the person negotiating the same shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness, and/or obligation of any person, firm or corporation, selling or negotiating said paper to the bank.

The limitations and restrictions herein contained shall not apply to obligations or indebtedness of the United States or of the State of Kentucky and obligations or indebtedness guaranteed as to principal and interest by the United States or the State of Kentucky and obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized respectively by Section 938q-16, Baldwin's 1939 Supplement to

Carroll's Kentucky Statutes and Section 4399-44 of Carroll's Kentucky Statutes, 1939 Edition.

By same.

H. B. 369. AN ACT to further regulate elections, and amending section 1594 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This Act shall apply to all primary and general elections and to all questions or propositions on which votes may be cast.

§ 2. As used in this Act, unless the context requires a different meaning:

(1) "Political committee" includes every committee or combination of two or more persons to promote the success or defeat of any candidate, political party, question, or proposition in any primary or general election.

(2) "Treasurer" includes all persons appointed by a political committee or candidate to collect, receive, keep or disburse money or any thing of value to promote the success of any candidate, party, question or proposition, and includes any political agent who also acts as treasurer.

(3) "Political agent" includes all persons appointed before any primary or general election by a candidate to assist him in his candidacy. The assistance rendered by a political agent may include acting as treasurer.

§ 3. (1) No person shall act as treasurer or political agent until:

(a) He has been appointed by a written appointment signed by the candidate, or by the chairman of the political committee, appointing him as treasurer or political agent, and

stating the full name and post office address of the person appointed, the political party, candidate, question or proposition represented, and the territory in which he is to serve; and

(b) The written appointment has been filed with the county court clerk of the county in which the treasurer or political agent resides, and a certified copy filed with the county court clerk of each other county in the territory or district served by the treasurer or political agent (except in the case of the treasurer of a state-wide political committee or of a state-wide political agent, when the written appointment shall be filed with the Secretary of State), and

(c) The treasurer has given bond as required by this Act.

(2) No person shall be appointed or serve as treasurer or political agent unless he has been a citizen of Kentucky for at least one year and of the county for at least six months, and is not the chairman of any political committee.

§ 4. Any political committee may remove its treasurer, and any candidate may remove his political agent. Upon being removed, the treasurer or political agent shall immediately account for and turn over to his successor all money in his possession as treasurer or political agent. Within twenty days after the removal, the treasurer or political agent shall file a detailed statement of his receipts and expenditures with the county court clerk of the county in which he resides, and in the office of the Secretary of State if acting for more than one county.

§ 5. Each member of a political committee and each political agent shall register with the county court clerk of the county of his residence, and, if acting for more than one county, shall also register with the Secretary of State. Necessary forms shall be furnished by the county court clerk and the Secretary of State. The registration papers filed shall set forth the full name and post office address of the persons registering, the name of the political party or candidate, the

cause, question or proposition represented, and the length of time the persons registering will be required to serve. No member of a political committee or political agent shall act as such before receiving from the county court clerk or the Secretary of State, a certificate showing that his registration, as provided for by this section, has been completed. Each person, upon registering, shall pay the county court clerk or the Secretary of State, or both, a fee of twenty-five cents.

§ 6. Every political committee shall appoint and constantly maintain a treasurer to collect, receive, keep and disburse all money or other things of value which are received or disbursed by the committee or agent for political purposes, and no political committee, member thereof or any other person, except a candidate who has no political agent, shall collect, receive, keep or disburse any money or other thing of value for any political purpose except through such a treasurer. Each treasurer appointed under this Act, before assuming his duties as such treasurer, shall execute bond payable to the State of Kentucky in such penalty as the political committee or political agent by whom appointed prescribes, except that in no event shall the minimum penalty of the bond be less than one thousand dollars. The bond shall be executed with surety or sureties approved by the committee, or political agent and shall be conditioned for the faithful performance of the treasurer's duties and a faithful accounting by him to his successor. An action may be maintained on the bond in the name of the State of Kentucky for the use of any interested person injured by a breach of its conditions. The bond shall be filed in the office of the county court clerk of the county where the treasurer resides at the time of his appointment; and in the case of a treasurer of a political committee or political agent representing or serving in more than one county, a copy of the bond shall be filed in the office of the Secretary of State. The premium, if any, shall be paid by the treasurer out of the funds kept by him as treasurer.

All money or things of value collected, received or disbursed by any political committee or by member thereof, or any political agent, shall be paid over to the treasurer and disbursed by him and no other person. Disbursement shall be made by voucher, drawn and signed by the chairman of the political committee on the treasurer and presented to the treasurer for payment, and the treasurer shall take a receipt for each disbursement from the person to whom the money is paid. The voucher shall show the specific purpose for which the money is being expended, and no political committee or member thereof or any political agent shall disburse or expend money or any thing of value until it has passed through the hands of the treasurer of such committee and a proper record made thereof.

§ 7. A candidate may act as his own political agent, or his own treasurer, or both; or he may appoint a qualified person to act as both political agent and treasurer. Where the candidate has no political agent or treasurer, he may perform in person all functions which could be performed by a political agent or treasurer, and shall make, sign and file all records, papers and reports required to be made, signed or filed by political agents and treasurers, except the written appointment required by section 3 of this Act and the bond required by section 6 of this Act. A candidate who has no political agent or treasurer may make and file in one unit any report required of both the treasurer and the political agent.

§ 8. No person, firm, organization or corporation shall solicit from any political committee or member thereof or from any treasurer, political agent or candidate, any contributions or donation for any purpose. Nothing in this Act shall limit the right of any person, political committee, political agent or candidate to expend money for proper legal expense in defending or contesting the result of any election. Any political committee, through its treasurer, may contribute

money or any thing of value to any other political committee, to be used for the purpose authorized by this Act. A record and report shall be made of such contributions as in all other cases. No person other than a treasurer may pay any of the expenses of a candidate or political committee at any primary or general election, except that a candidate may pay his own personal expenses.

§ 9. Any treasurer, political agent or candidate who does not have a political agent may, in connection with any primary or general election, pay the following expenses and none other unless otherwise provided by this Act:

(1) Necessary cost of hiring and decorating halls and for music for conventions and public meetings and for advertising the same, and any other incidental expenses of such conventions or meetings.

(2) The printing and circulating of political articles, circulars, circular letters, plate and electrotype matter, candidate's cards and pictures, pamphlets and books, including also the payment of subscriptions to newspapers and periodicals containing political articles to be circulated among voters.

(3) The printing and distributing of sample or specimen ballots and instructions to voters.

(4) The renting of rooms and headquarters to be used by political committees, political agents, candidates or treasurers.

(5) Compensation for clerks, stenographers, typists and other assistants employed in said rooms or headquarters or on the business of the committee, treasurer or candidate outside of said rooms or headquarters, and also for challengers, at registration rooms or at the polls.

(6) The traveling and other legitimate expenses of political agents, political committees, treasurers and public speakers, including reasonable compensation for the chair-

man, the secretary and treasurer of any political committee or political agent.

(7) The cost of making poll books and copies of registration lists, and compiling information or data with respect to the qualifications of voters or their political affiliation or any other information of a political character.

(8) The cost of necessary stationery, postage, telegrams, telephoning and printing.

(9) The necessary cost of equipping, furnishing and maintaining rooms and headquarters and places of meeting for political committees, political agents, candidates and treasurers both during and after a political campaign as permanent headquarters.

(10) The expense of messengers sent by the direction of the chairman of any political committee, candidate or political agent, in connection with political matters, and also the expense of any person summoned by or at the instance of the chairman of any political committee, candidate or political agent, to the headquarters or offices, in connection with political matters.

(11) All expenses incurred by the chairman of any political committee or political agent, in providing accommodations or entertainment for members of such committees, including persons appointed by such committee or agent for the transportation and entertainment of such members or persons when assembling for any meeting of the committee in connection with party matters.

(12) The cost of political parades, meetings and demonstrations, the cost of political buttons, lithographed matter, banners and other political advertising. No political committee, treasurer, candidate or political agent shall incur any expense or liability or make any payment for any purpose not authorized by this section, and all liability incurred or payment made shall be at a rate reasonably and fairly commensurate with the services rendered.

§ 10. At the same time and in the same manner that reports are required to be filed by sections 1565b-4, 1565b-5 and 1565b-6, every political committee by its chairman, and every treasurer, political agent and candidate shall file a detailed account and statement, subscribed and sworn to before an officer authorized to administer oaths. The statement shall include the amount of money or other things of value in each case received or promised, the name and post office address of the person from whom received or by whom promised, the amount of every expenditure made or promised, or liability incurred, the name and post office address of the person to whom such expenditure was given or promised or to whom such liability was incurred, and the purpose for which the money or property was expended, or promised, or for which liability was incurred. The statement shall also set forth, in detail, all debts and obligations of such political committee, treasurer or political agent or candidate, for what purpose incurred and to whom owing. Every treasurer, political agent and candidate shall keep, in detailed, full and accurate form, in a book called "account book" to be provided by him and preserved by him, a record of all transactions required by this section to be listed in the detailed statement. No person elected to any office under the laws of this state shall enter upon the duties thereof or receive any salary or compensation therefrom until he has filed the statement provided for in this section, and no officer or board authorized to issue certificates of election or nomination shall issue such a certificate to any person until the statement is filed. As soon as the statement is filed the clerk or the Secretary of State shall issue to the candidate a certificate showing that the statement has been filed, and the date of filing, and the candidate shall present the certificate to the officer or board authorized to issue certificates of election or nomination.

The chairman of every political committee, and every

treasurer, political agent or candidate who fails to make out, verify and file the statement required by this Act, or who fails to provide, keep and preserve the "account book" provided for in this section, shall be fined not less than three hundred dollars nor more than two thousand dollars, or imprisoned for not less than six months nor more than one year, or both so fined and imprisoned.

Ten days after the expiration of the period allowed for filing the original statement, the officer with whom it is required to be filed shall notify the proper prosecuting officer of any failure to file such statement on the part of any candidate, treasurer, political agent or political committee and within fifteen days thereafter, the prosecuting officer shall proceed to prosecute for such offense if, in the meantime, the statement has not been filed.

§ 11. The officer with whom any statement required by section 10 is filed shall preserve it as a public record for four years from the date of filing.

§ 12. The Secretary of State shall send to the Clerk of the United States Senate a certified copy of each statement filed by a candidate for the United States Senate or for the nomination to that office, whether or not the candidate was successful. The Secretary of State or county court clerk with whom the statement is filed shall send to the Clerk of the United States House of Representatives a certified copy of each statement filed by a candidate for the United States House of Representatives or for the nomination to that office, whether or not the candidate was successful. The clerk of the circuit court in which the grand jury has investigated, as required by section 13 of this Act, the statement of expenses of any candidate for either House of the General Assembly, shall send to the Secretary of State a certified copy of the grand jury's report, within twenty days after the date of the report.

§ 13. The officer with whom such statements are filed shall deliver to the next grand jury empaneled in the county a certified copy of each statement, and the grand jury shall carefully investigate each statement to ascertain whether each item conforms to the facts and whether the person filing such statement has violated this Act. The grand jury shall summon the members of any political committee, any treasurer, any political agent, candidate, or other person they may desire to examine, to testify concerning any item on the statement. The grand jury shall file with the circuit judge, in writing, a detailed and full report of its investigation of each case, including the names and addresses of all witnesses examined. The grand jury shall indict all persons guilty of any violation of this Act. If any county clerk, secretary of State, grand jury, Commonwealth's attorney or county attorney shall fail or refuse to comply with the provisions of this section, the circuit judge shall treat him as being in contempt of court and administer adequate punishment dealing with each grand juror individually.

§ 14. *Corrupt Practices prohibited.* (1) No person shall, directly or indirectly, by himself or by another, give, offer or promise to any person, any money, gift, advantage, preferment, aid, emolument or any thing of value, for the purpose of inducing or procuring any person to vote or refrain from voting, for or against any person, party, question or proposition, at any general election, primary election or political convention.

(2) No person shall, directly or indirectly, receive, accept, or solicit from any person, candidate, committee, association, organization or corporation, any money, gift, advantage, preferment, aid, emolument or any thing of value, for the purpose of inducing any person to vote, or refrain from voting, for or against any person or for or against any party, question, or proposition at any primary, general election or political convention.

(3) No person, in consideration of any money, gift, advantage, preferment, emolument or any thing of value to the advantage of himself or any other person, shall vote or refrain from voting for or against any person or for or against any party, question or proposition, at any general or primary election.

(4) No person shall, directly or indirectly, pay, contribute or promise any money or other thing of value, toward defraying the cost of any campaign or election of any person, political party, committee, club, company, organization or association, other than to a political committee, treasurer, political agent and is not represented by any political committee.

(5) No person shall, directly or indirectly, by himself or through another, make a payment or promise of payment to any political committee, treasurer, political agent or candidate, in any name other than his own.

(6) No treasurer, political committee, political agent, or candidate who has no political agent shall knowingly receive a payment or promise of payment and enter the same or cause the same to be entered in his accounts, under any name other than that of the person by whom such payment or promise of payment is made.

(7) No person before, during, or after a general or primary election, by himself or by any other person, either directly or indirectly, shall give or provide anything of value to or for any person for the purpose of influencing his vote in any way.

(8) No person, at any general or primary election, shall apply for a ballot in the name of any person other than himself, or by the name of any deceased or fictitious person.

(9) No person, after having voted once in any primary or general election, shall apply for a ballot at the same election, in his own name or any other name.

(10) No person shall aid, abet, counsel or procure the commission of any act prohibited by this section.

(11) If any committee or other group of persons violate any provisions of this section each individual member of the committee or group shall be guilty as if such violation had been committed by him alone.

(12) Every person who violates any provision of this section shall be fined not less than three hundred dollars nor more than one thousand dollars, or imprisoned for not less than one year or more than two years, or both so fined and imprisoned.

§ 15. Within thirty days after any general or primary election, any candidate or any ten qualified voters at the election may present to the circuit judge of the county in which the candidate or voters reside or to the circuit judge of any county in the district in which the candidate or proposition was voted for, a petition, setting forth under oath that corrupt practices, in violation of any provision of this Act, were committed at, before or after such election, within the county, district, or city aforesaid, and praying that the facts alleged may be inquired into. The circuit judge shall refer the petition to the next grand jury in the county to be investigated and acted upon. The circuit judge shall convene a special grand jury at any time, in any county of his district, to investigate such petitions and also reports and statements of political committees, treasurers, political agents or candidates, if, in his judgment, it is necessary.

§ 16. No person, in order to promote his own nomination or election or that of any other person, shall, directly or indirectly, by himself or through another, promise to appoint, or promise to secure, or to assist in securing, the appointment, nomination or election of another person to a public position or employment, or to a position of honor, trust or emolument.

§ 17. The Attorney-General shall prosecute all circuit judges, Commonwealth's attorneys, and county attorneys charged with failing to perform their duties under this Act, and the Commonwealth's attorney and the county attorney shall prosecute all other persons charged with violating this Act. Any citizen or group of citizens may employ an attorney to assist the Commonwealth in any prosecution under this Act, and any attorney so employed shall be recognized by the court as associate counsel in the proceedings, and no prosecution shall be dismissed without notice to, or against the objection of, the associate counsel until the reasons of the Commonwealth for such dismissal, together with the objections thereto of the associate counsel, have been filed in writing, and fully considered by the court, with such limitations as to the time of filing such reasons and objections as the court may impose. Any Commonwealth's attorney, county attorney, or circuit judge who fails to perform any duty imposed upon him by this Act shall forfeit his office and be fined not less than five hundred nor more than one thousand dollars.

§ 18. Any person convicted of violating any provision of this Act shall, in addition to other punishment provided in this Act, forfeit any public office held by him, and be disqualified from the date of conviction, and for four years thereafter, to hold any public office in this Commonwealth either by election or appointment; and the judgment shall so state.

§ 19. The officer required to receive and file expense accounts and reports provided for by this Act shall be paid a filing fee of fifty cents for filing same, to be paid by the committee or person for whom each account or report is filed. The officer having custody of any such account or report shall make and deliver a certified copy to any person requesting it and may charge him a fee at the rate allowed to county clerks for such services.

§ 20. Any person failing or refusing to perform any duty imposed by, or violating any provision of this Act for which a penalty is not already provided, shall be fined not less than two hundred dollars nor more than one thousand dollars, and shall forfeit any office he may hold.

§ 21. Each candidate shall be presumed to have authorized any act done in his behalf by his political committee, political agent or any other authorized agent or representative, and may be prosecuted jointly with such agent or representative for violating this Act. But the punishment of any candidate for acts of his agent or representative shall not extend further than to forfeiture of office, four years of disfranchisement, and four years of disqualification to hold public office.

§ 22. Section 1594 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

In any prosecution under this chapter, it shall be no exemption for a witness that his testimony may criminate himself; but no such testimony given by a witness shall be used against him in any prosecution, except for perjury; and if used on behalf of the Commonwealth, he may be discharged from all penalties for any violation of this chapter, the evidence of which was necessarily disclosed in his testimony, as tending to convict the accused.

By Mr. Hunnicutt.

H. B. 370. AN ACT to repeal, amend and re-enact Section one hundred sixty-five a-nine (165a-9) of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six (1936) Edition, as amended in the Acts of one thousand nine hundred and thirty-eight (1938), Chapter one hundred and three (103), and Section one hundred sixty-five a-nine-one (165a-9-1) of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six (1936) Edition, relating to the fees to be collected by the Division of Banking.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section one hundred sixty-five a-nine (165a-9) of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six (1936) Edition, as amended in the Acts of one thousand nine hundred and thirty-eight (1938), Chapter one hundred and three (103), and Section one hundred sixty-five a-nine-one, (165a-9-1), Carroll's Kentucky Statutes, one thousand nine hundred and thirty-eight (1938) Edition, be and are hereby repealed, amended and re-enacted, so that, when thus re-enacted, the reading shall be as follows, to wit:

Section one hundred sixty-five a-nine (165a-9). The cost, expenses and salaries incident to the maintenance and operation of the *Division of Banking* shall be paid by the State Treasury and for the purpose of assistaing therein, the following payment shall be made to the *Director of the Division of Banking:*

1. For the report of a bank, trust company, or combined bank and trust company, a filing fee of One Dollar ($1.00) shall be paid by such institution to the *Director of the Division of Banking.*

2. For each examination as is now or may hereafter be provided for by law, the institution examined shall pay to the *Director of the Division of Banking* the following fees, to wit:

On each bank, trust company or combined bank and trust company having assets of not more than $300,0000 a flat fee of $35.00; institutions having assets of $300,000 and not more than $600,000 a flat fee of $50.00; on each institution having assets of $600,000 and not more than $1,000,000 a flat fee of $60.00; on each institution having assets of $1,000,000 and not more than $2,000,000 a flat fee of $80.000; on each of said institutions having assets of $2,000,000 and not more than $3,000,000 a flat fee of $150.00; on each institution having

assets of $3,000,000 and not more than $5,000,000 a flat fee of $200.00; on each of said institutions having assets of $5,000,000 and not more than $10,000,000 a flat fee of $300.00, and on each of said institutions having assets, of $1,000,000.00 or more a flat fee of $400.00.

3. Each bank with a trust department, for the examination of the trust department, and each trust company shall pay to the *Director of the Division of Banking* the expenses of such examination, which expenses, however, shall not exceed Fifteen Dollars ($15.00) per day for the services of each Examiner actively engaged in the examination. Provided, however, that the *Director of the Division of Banking* shall accept examinations made of the trust department in combined banks and trust companies by Examiners for the Federal Reserve System, Federal Deposit Insurance Corporation, or a Certified Public Accountant, if the report of such audit or examination is furnished to him.

4. A fee of Fifty Dollars ($50.00) shall be paid to the *Director of the Division of Banking* for the investigation incident to the granting of a charter to a proposed new bank.

5. Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the *Director of the Division of Banking,* shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

6. In addition to the flat fees as fixed in the foregoing schedule, each of said institutions shall also pay for each examination a charge of three cents (3c) on each $1,000.00 of assets or fractional part of $1,000.00 of assets, excluding all assets held by any institution in a fiduciary capacity.

All moneys collected by the *Director of the Division of Banking* for such examinations, fees or otherwise, shall be paid as collected into the State Treasury and then credited to the account of the *Director of the Division of Banking.*

The Governor is hereby authorized in his discretion to increase the annual appropriation made to the Division of Banking for examination of banks, small loan companies, credit unions, building and loan associations and industrial loan associations, to an amount not to exceed the annual revenues collected and paid into the State Treasury as the proceeds of fees levied and collected for the examination and supervision of said banks, small loan companies, credit unions, building and loan associations, and industrial loan associations.

Whereas, the present revenue does not maintain the immediate needs for the maintenance of the Division of Banking, an emergency is hereby declared to exist and this Act shall become a law and be effective immediately after its passage and approval by the Governor

By Mr. Lyon.

H. B. 371. AN ACT exempting from execution, attachment, garnishment, distress or fee bill salaries or wages due and earned by residents of the Commonwealth of Kentucky, whether single or with a family.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That all salaries or wages earned or due any resident of the Commonwealth, whether single or with a family, shall be exempt from execution, attachment, garnishment, distress or fee bill.

By Mr. Hickey.

H. B. 372. AN ACT relating to funeral processions.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A "funeral procession," within the meaning of this Act, is a hearse and vehicles following it to a place where the funeral ceremony or burial is to take place, for the purpose of witnessing or taking part in the funeral ceremony or burial.

§ 2. Each motor vehicle, including the hearse, taking part in a funeral procession shall have its headlights burning, and the hearse shall be so constructed or marked as to indicate its nature and the purpose for which it is being used.

§ 3. Each hearse leading a funeral procession shall obey all traffic lights and stop signs, but where the hearse has started across any street or highway the other vehicles in the procession may follow without obeying the light or sign, if necessary in order to keep their place in the procession. No funeral procession shall proceed at a slower speed than fifteen miles per hour, except when conditions of traffic or of the street or highway make it necessary, and when the procession is stopping or starting.

§ 4. A funeral procession shall be considered broken if there is a place of fifty feet or more between any two vehicles in the procession, and any other vehicle may cross at any point and at any time where the procession is broken.

§ 5. No vehicle, except an ambulance, police vehicle, fire engine, fire chief's automobile or hook and ladder carrier shall cross or break through an unbroken funeral procession, unless directed or permitted to do so by a policeman or State highway patrolman, or unless it reasonably appears to be necessary to cross or break through in order to obtain the aid of a physician, or to save human life.

§ 6. No person shall willfully interrupt or obstruct a funeral procession except as permitted by this Act; but a mere crossing or breaking through a procession is not a willful interruption or obstruction within the meaning of this Act.

§ 7. (1) Any person who violates section 6 of this Act shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00).

(2) Any person who violates any other section of this Act shall be fined not less than one dollar ($1.00) nor more than twenty-five dollars ($25.00).

(3) In any prosecution under this Act, the failure of the hearse driver or of any five or more drivers of vehicles in the procession to comply with section 2 of this Act shall be a valid defense, and on proof of such failure the court shall direct a verdict or enter judgment for the defendant.

By same.

H. B. 373. AN ACT relating to game, and permitting the killing or taking of rabbits for the protection of crops, trees and plants.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *1954d-60a. Rabbits injuring crops, trees or plants.* Regardless of any closed season or bag limit, the owner or lessee of land on which crops, fruit trees, shrubs, or flowers are being grown may trap or kill any rabbit found actually injuring or molesting such crops, fruit trees, shrubs or flowers, or any rabbit found inside the fenced enclosure where such crop, fruit trees, shrubs or flowers are grown, or within twenty-five feet of any such tree or plant, where there is no fence.

By Mr. Brim.

H. B. 374. AN ACT relating to highways providing for the planting, growing, and controlling of all trees, shrubbery, and other flora growing, plant or being on the right of way of any state constructed or maintained road.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That all trees, shrubs, or other flora growing, planted or being upon the right of way of any state maintained road shall be under the control and supervision of the Department of Highways. The Department of Highways shall supervise and have exclusive control over the cutting, trimming, care, planting and growing of said trees, shrubs and other flora upon said rights of way.

§ 2. No person, persons or corporation shall have the right to cut, trim or remove any trees, shrubbery or other flora upon the right of way of any state maintained road without the written consent of the Department of Highways; provided, however, the agents and employees of the said Department of Highways shall trim, cut, remove or plant such trees and shrubbery or other flora at the direction of the proper authorities of the Department of Highways without such written consent as above set out.

§ 3. All laws in conflict herewith are hereby expressly repealed to the extent of such conflict only.

By Mr. Sparks.

H. B. 375. AN ACT providing for the purchase and installation of a loud speaking system in the chamber of the House of Representatives in the State Capitol.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Department of Finance shall through the division of purchases and public properties, purchase and have installed before January 1, 1942, a system of loud

speakers for the Chamber of the House of Representatives. Before the Commissioner of Finance shall contract for the purchase and installation of the loud speaking system the contract shall be approved by the Governor.

§ 2. The cost of purchasing and installing the loud speaking system shall be paid for out of the General Expenditure Fund. But in no case shall the cost exceed five hundred dollars.

By Mr. Ward.

H. B. 376. AN ACT to repeal, amend and re-enact Section 4636-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, relating to the State Fire and Tornado Insurance Fund, providing for reinsurance so as to limit the net liability of the State Fire and Tornado Fund.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 4636-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, be and the same is hereby repealed, amended and re-enacted so that as amended and re-enacted, it shall read as follows:

Reinsurance Authorized.—With the approval of the Department of Finance, the Division of Insurance may contract with any responsible fire and tornado insurance or reinsurance company authorized to do business in this State to reinsure any building and contents thereof of which the total valuation has been fixed at over five hundred thousand dollars ($500,000.00) in such a way as to limit the net liability of the State Fire and Tornado Insurance Fund with respect to such building and the contents thereof to five hundred thousand dollars ($500,000.00). And the Division of Insurance shall insure property financed under a statutory amor-

tization plan to the extent of the lien indebtedness upon said property or to the extent of the reasonable value of said property, whichever is the lesser. The premium payable by reason of such contract of reinsurance shall be debitable against the State Fire and Tornado Insurance Fund, and shall be payable on warrant of the Department of Finance. Provided that during any fiscal year in which the State Fire and Tornado Insurance Fund amounts to less than One Million ($1,000,000.00) Dollars, the Division of Insurance, with the approval of the Department of Finance, may reinsure in the manner provided in this Section, any building and contents thereof of which the total valuation has been affixed at over Two Hundred Thousand ($200,000.00) Dollars, in such way as to limit the net liability of the State Fire and Tornado Insurance Fund with respect to such building and the contents thereof to Two Hundred Thousand ($200,000.00) Dollars.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced as follows:

H. B. 336. To Committee on Railroads.

H. B. 337. To Committee on State and National Parks.

H. B. 338. To Committee on Judiciary.

H. B. 339. To Committee on Codes of Practice.

H. B. 341. To Committee on Motor Transportation.

H. B. 342. To Committee on Cities of the First Class.

H. B. 343. To Committee on Revenue and Taxation No. 1.

H. B. 344. To Committee on Circuit Courts.

H. B. 345. To Committee on Agriculture No. 1.

H. B. 346. To Committee on Public Health No. 1.

H. B. 350. To Committee on Education No. 1.

H. B. 351. To Committee on Kentucky Statutes No. 1.

H. B. 352. To Committee on Alcoholic and Liquor Control No. 1.

H. Res. 49. To Committee on Appropriations No. 1.

H. Res. 55. To Committee on Appropriations No. 1.

H. Res. 57. To Committee on Claims.

H. Res. 58. To Committee on Claims.

H. Res. 59. To Committee on Claims.

H. Res. 62. To Committee on Claims.

H. Res. 64. To Committee on Claims.

H. Res. 65. To Committee on Claims.

H. Res. 66. To Committee on Claims.

Mr. Walters moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon Mr. Walters of the Committee on Roads and Highways No. 1 to which the same had been previously referred, reported a bill entitled:

H. B. 169. An Act to repeal, amend and re-enact Sec. 2739g-33 Kentucky Statutes, Baldwin's 1936 Edition, which is a portion of Chapter 90 etc.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 161. An Act to prohibit the taking, enticing, assisting to escape, or the encouraging to escape of lawfully committed inmates from the State Hospitals for the Insane and from the Feeble-Minded Institute; declaring such taking, assisting, enticing, or encouraging a felony; providing the punishment therfor.

Which was reported by the Senate on today with amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of January 23.)

Said amendments as proposed and adopted by the Senate are as follows, viz.:

1. Amend H. B. 161 by striking from line 5 of the printed bill the word "felony" and substituting therefor the word "misdemeanor"

2. Amend H. B. 161. That lines 7 and 8 of the printed bill be stricken and the words "punished by confinement in the county jail for a period not to exceed six (6) months."

3. Amend the title to H. B. 161. That the word "felony" be stricken from line 4 of the title of the printed bill and substitute the word "misdemeanor."

Said amendments were each concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	John M. Hunnicutt	Joe E. Robinson
Wm. T. Beard	W. H. Hunt	Jack Savage
Alvis S. Bennett	J. B. Jarboe, Jr.	Carl Scheben
Sterling B. Blake	Chas. X. Jones	Leon J. Shaikun
Douglas T. Bolling	John S. Juett	Ray O. Shehan
W. S. Brim	William K. King	Faust Y. Simpson
Gus A. Brooks	W. A. Lamkin, Jr.	Otto Smither
Randolph A. Brown	Robert E. Lee	E. T. Sparks
Haynes Carman	Harvey D. Leonard	G. C. Springate
James W. Chapman	Edward Leslie	J. Claude Stacy
F. E. Daugherty	Paul W. Lyon	Ray J. Stengel
Louis B. Dugan	C. C. May	W. St. Clair Stuart
Forest C. Easley	T. B. McConnell	T. M. Swope
D. E. Edwards	Norris McPherson	Otis C. Thomas
Carlos Fallis	Stanley C. Moebus	Erna E. Tyra
T. P. Fitzpatrick	Davis Moore	J. Wood Vance
Wayne Freeman	Joe T. Morgan	Walter R. Vansant
Van Y. Greene	C. Homer Neikirk	Porter Wallace
C. L. Hammons	Carl D. Perkins	Harry F. Walters
Clyde S. Howard	Kleber F. Price	H. L. Waterfield
T. H. Hickey	Hobart Rayburn	Otis White
Chester Huffines	Thomas Rigdon	James H. Woods

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Mr. Perkins moved that the vote by which said bill was passed, as amended be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on Tuesday, February 13, at one-thirty o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, FEBRUARY 13, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Haynes Carman	R. R. Ernst
J. Everett Bach	Charles M. Carter	Carlos Fallis
H. T. Baker	James W. Chapman	T. P. Fitzpatrick
G. M. Ballard	S. B. Chrisman	Cecil Florence
Robert E. Barry	John Coulter	Wayne Freeman
Wm. T. Beard	John H. Cox	Eugene Gough
Alvis S. Bennett	Pink G. Curd	Van Y. Greene
Sterling B. Blake	F. E. Daugherty	Ralph C. Hamilton
Douglas T. Bolling	Stanley S. Dickson	C. L. Hammons
J. F. Bosworth	Louis B. Dugan	T. H. Hickey
W. S. Brim	Forest C. Easley	Chester Huffines
C. J. Bronston	D. E. Edwards	John M. Hunnicutt
Randolph A. Brown	Harry W. Ennis	W. H. Hunt

R. L. Jackson	Joe T. Morgan	J. Claude Stacy
J. B. Jarboe, Jr.	C. Homer Neikirk	Ray J. Stengel
Chas. X. Jones	Carl D. Perkins	Henry Stewart
John S. Juett	B. W. Porter	W. St. Clair Stuart
William K. King	Kleber F. Price	T. M. Swope
W. A. Lamkin, Jr.	Hobart Rayburn	Otis C. Thomas
Robert E. Lee	Thomas Rigdon	Erna E. Tyra
Harvey D. Leonard	W. H. Riley	J. Wood Vance
Edward Leslie	Joe E. Robinson	Walter R. Vansant
W. Paul Lyon	Lyman Roll	S. J. Wagner
C. C. May	Jack Savage	Porter Wallace
T. B. McConnell	Leon J. Shaikun	Henry Ward
Frank C. McElwain	Ray O. Shehan	H. L. Waterfield
E. Hayes McMakin	Faust Y. Simpson	Otis White
Norris McPherson	Bruce Sloan	James H. Woods
John B. Mollette	Otto Smither	Mr. Speaker
Davis Moore	E. T. Sparks	
J. Lee Moore	G. C. Springate	—91

Mr. Easley moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Messrs. Grover Ranson, Stanley Shelton, Dave Haggen of Daviess county.

Said motion was agreed to.

Mr. Howard moved that the privilege of the floor be extended to Messrs. C. E. Morgan and Guy Hagan of Elizabethtown, Kentucky.

Said motion was agreed to.

Mr. Edwards moved that the privilege of the floor be

extended to Messrs. C. D. Hagan, J. P. Shanks and Fred Gibson.

Said motion was agreed to.

Mr. Carman moved that the privilege of the floor be extended to Judge W. L. Gonterman of Hart county.

Said motion was agreed to.

Mr. Lamkin moved that the privilege of the floor be extended to Mr. Lamar Frymire of Irvington, Kentucky.

Said motion was agreed to.

Mr. Shaikun moved that the privilege of the floor be extended to Mr. James Henning, Judge Mark Beauchamp and Mr. Lawrence Grauman.

Said motion was agreed to.

Mr. White moved that the privilege of the floor be extended to Mr. Raymond Nall of Ohio county.

Said motion was agreed to.

The hour of two o'clock P.M. having arrived, that being the hour for the Special Order of the Day, to-wit a bill entitled:

H. B. 80. An Act known as the Soil Conservation Act.

With Committee Amendments thereto,

The House took up for consideration said bill.

Mr. Vance moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration a resolution entitled:

H. Res. 56. A RESOLUTION urging the members of the Congress of the United States of America to support Senate Bill No. 1518 and H. R. Bill No. 7152 of the 76th Congress, which provide for the establishment of the Cumberland Gap National Historical Park and the Cumberland National Recreational Area in Kentucky, Virginia and Tennessee.

Said resolution is as follows, viz.:

WHEREAS, bills have been introduced into the Senate and House of Representatives of the Congress of the United States of America, providing for the establishment of the Cumberland Gap National Historical Park and the Cumberland National Recreational Area in Kentucky, Tennessee and Virginia, and

WHEREAS, this proposed Park includes within its boundaries Cumberland Gap, the most famous mountain pass in America, which has had tremendous influence and affect upon the settlement of the West and the Great Northwest and which has been used for the past three hundred years as a passageway from the North to the South, first as the old Warrior's Path established centuries ago by the Indians and used as a passageway from the Great Lakes area and leading into the Southland and later as the Wilderness Trail for the white settlers of the West and the Northwest, and

WHEREAS, the Indians were followed later by Daniel Boone and other pioneers who came in from the South and East through Cumberland Gap on trips of exploration and settlement into what was developed the States of Kentucky, Ohio, Indiana and Illinois, Missouri, Kansas, Arkansas, and other regions of the West and Great Northwest, and

WHEREAS, during the War Between the States, Cumberland Gap and the mountains surrounding it formed a most

strategic and important location for fortifications, and were the scenes of many military conflicts, being held in turn by both Federal and Confederate forces, and

WHEREAS, the first all paved highway from the Great Lakes to Southern Florida passed through Cumberland Gap, so that the Gap with the roads and trails leading thereto has played a most important part in the development of travel and transportation in the United States, and

WHEREAS, there are numerous points of great scenic and historic interest in and surrounding the Gap which should be preserved such as Salt Peter Cave from which salt peter was taken during the War of 1812 and the Civil War for the use of manufacture of gun powder; Soldiers Cave which was used for storage of implements of War and as a hiding place for soldiers during these conflicts, and about which a book entitled "Cudjo's Cave" was written by James T. Trowbridge, which enjoyed wide circulation; the Pinnacle which served as a landmark to the surveyors in the early 1700's, and which was used as a vantage point for the location of one of the largest guns used in the Civil War, and on the sides of which were many fortifications, trenches and forts in use at that time; Sand Cave in which is to be found countless varieties and colors of sand; Devil's Garden with its many unusual and unique rock formations; the Doublings; White Rock; Moore's Knob; Rocky Face; Fern Lake; historic Cumberland Ford over which the Wilderness Road passed, and many other interesting points that should be preserved for posterity, and

WHEREAS, this is the most important spot in America of such great historic significance around which there is so much available forest land that can be purchased at this time for the development of this much needed Park, and

WHEREAS, this Park which is easily accessible to the great centers of population of the United States would draw to its boundaries a tremendous number of people, bringing

into the three states affected a large and increased revenue, and would add to the many attractions already established in state and national parks in the three states affected,

THEREFORE, *be it Resolved* that we the House of Representatives and the Senate of the Kentucky Assembly in regular Session do hereby petition the following Senators and Representatives of the states of Kentucky, Tennessee and Virginia in our National Congress: Senators Alben W. Barkley, Harry Flood Byrd, A. B. Chandler, Carter Glass, Kenneth McKellar and Tom Stewart, and Congressmen Joe B. Bates, Schuyler Otis Bland, Thomas G. Burch, Joseph W. Byrns, Jr., Virgil Chapman, Jere Cooper, Wirt Courtney, Edward W. Creal, Colgate W. Darden, Patrick H. Drewry, John W. Flannagan, Jr., Albert Gore, Nobel J. Gregory, John Jennings, Jr., Estes Kefauver, Andrew J. May, Emmett O'Neal, Herron Pearson, B. Carroll Reece, A. Willis Robertson, John M. Robsion, Dave E. Satterfield, Jr., Howard W. Smith, Brent Spence, Beverly M. Vincent, Clifton A. Woodrum to do everything in their power to bring to passage at as early a date as possible the above mentioned bills.

Be it further Resolved that the Clerk of the House of Representatives be directed to mail copies of this Resolution to each Senator and Congressman of the United States, soliciting their active support of this praiseworthy effort to add to the National Park System of the nation this unique, important and outstanding historic and scenic area which has meant so much in the development of America.

Said resolution was then adopted.

The House took up for consideration from the Calendar bills and resolutions of the following titles, viz.:

H. B. 224. An Act to amend Sec. 216aa-3 and Sec. 4618-106 of Carroll's Kentucky Statutes, Baldwin's 1936

edition, relating to the administration of the charitable and correctional institutions of the State.

H. B. 115. An Act creating a Division of Markets in the Department of Agriculture, Labor and Statistics, defining its powers etc.

With a Committee Amendment thereto by way of Substitute therefor.

H. R. 321. An Act relating to all classes of property actually or presumptively subject to escheat; etc.

H. B. 347. An Act authorizing the Governor to transfer to the Department of Conservation, for the use and benefit of the Division of Game and Fish, the possession, control and management of one hundred acres of land located in Mercer county.

H. B. 323. An Act to repeal, amend and re-enact Sec. 1954d-42, Kentucky Statutes, relating to game and fish.

H. B. 130. An Act to provide that persons seventy years of age or over shall be exempt from fishing license for hand pole and line fishing.

With a Committee Amendment thereto.

H. B. 49. An Act for the protection of birds.

H. B. 318. An Act providing for the revocation of hunting, fishing, trapping, seining, loopnet, and fur buyers or dealers and mussel licenses.

H. B. 151. An Act to repeal, amend and re-enact Sec. 2089L-3, 2089L-4 and 2089L-5 of Baldwin's Kentucky Statutes,

relating to the incorporation and regulation of non-profit Hospital Service Corporations.

With a Committee Amendment thereto by way of Substitute therefor.

H. B. 350. An Act to provide for the election of members of boards of education, etc.

H. B. 250. An Act to amend Sec. 186 of the Constitution of the Commonwealth of Kentucky relating to the distribution and use of the public school fund of the Commonwealth of Kentucky.

H. B. 247. An Act providing for a Teacher Retirement System for the State of Kentucky etc.

With a Committee Amendment thereto by way of Substitute therefor.

H. B. 209. An Act to establish a Kentucky Farm Tenancy Commission; to define its work; to provide for its conduct and expenses; etc.

H. B. 340. An Act to prevent the spread of syphills and to provide for an antenuptial physical examination to determine the presence of syphilis, etc.

H. B. 198. An Act providing a notice to cities of the State of Kentucky of intention to claim damages for any injuries.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled:

S. B. 11. AN ACT repealing, amending and re-enacting section 13, chapter 21; section 1 of chapter 36, Acts of the

First Extraordinary Session of the 1938 General Assembly; and sections 4131, 4143, and 4147 of Carroll's Kentucky Stautes, Baldwin's 1936 Revision, all relating to revenue and taxation; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 13 of chapter 21, Acts of the First Extraordinary Session of the 1938 General Assembly be and the same is hereby repealed, amended, and re-enacted so that when re-enacted said section will read as follows:

The sheriff or collector shall on or before assuming the duties of the office for the first time, enter into bond with surety for the faithful performance of his duties as revenue collector and special tax collector if he acts as special tax collector, which bond shall cover liability to account, as provided by law, for all charges of taxes made against him and for all monies received by him as revenue collector from the date he assumes the duties of the office to and including the thirtieth of May of the next succeeding year. He shall enter into bond with surety thereafter before or as of the first day of June of each succeeding year of the term of his office. No tax bill or tax book shall be delivered to the sheriff or collector after the thirtieth day of May of the second calendar year of the sheriff's regular term until he shall exhibit then and annually thereafter a quietus from the Department of Revenue and from the fiscal court of his county for the preceding tax period and his revenue bond for the next tax year. He shall execute bond before he qualifies and it shall be the duty of the judge of the county court to hold court at any time the sheriff may request for that purpose.

The county judge shall judge of the sufficiency of the surety and in no case shall sureties be taken who are not jointly worth, subject to execution after the payment of all

their debts and liabilities, a sum equal to the aggregate amount of state tax receipts which will probably be received by the sheriff or collector during the year or period succeeding the execution of the bond; provided, that where a corporate surety bond is offered it shall be for a sum of not less than the largest amount of state tax receipts which the sheriff or collector will probably have in his possession at any one time; and provided further, that such corporate surety bond shall in no event exceed two hundred thousand dollars ($200,000). The County judge, with the approval of the Department of Revenue, shall determine the amount of the corporate surety bond and judge of the sufficiency of the surety. The Commonwealth, the county, and taxing districts shall have a lien from the date the sheriff begins to act, upon the real estate of the sheriff therein owned or which may afterwards be acquired by him during his term as sheriff or special tax collector which shall not be discharged until the whole amount of the money collected by the sheriff or collector, or for which he may be liable to them respectively shall have been paid, or until four (4) ears have elapsed from the expiration of his term of office without any action or legal proceeding having been commenced to assert the lien, and the same lien shall exist upon the real estate of a usurper of the office of sheriff or collector or a de facto sheriff or collector, or any person who may act as sheriff or collector.

If in any county the tax records are destroyed by fire, lost, stolen, or mutilated so as to require re-assessment of the property in the county, or a re-certification of the tax bills, the sheriff in such counties shall have five (5) months from the time he receives said re-certified tax bills within which to make the settlement with the fiscal court and the Department of Revenue, as herein provided, and to receive his quietus therefor from the Department of Revenue and from the fiscal court of his county

§ 2. That section 1 of chapter 36, Acts of the Kentucky

General Assembly at the 1938 First Extraordinary Session be and the same is hereby repealed, amended and re-enacted so that when re-enacted said section will read as follows:

An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office and shall made a full and complete settlement of his accounts as sheriff except as provided in this section.

There is hereby created the office of special tax collector whose sole duty it shall be to collect, as far as he can up until the first day of June following the expiration of the sheriff's term of office, all unpaid tax bills which may be in possession of the sheriff upon the date of expiration of his term as sheriff and shall also collect the franchise tax due and payable on or before June 1st, after his term of office as sheriff has expired. If the outgoing sheriff so desires, he may elect to act as special tax collector for the balance of the current tax year, in which event he shall keep all unpaid tax bills which he may have in his possession on the date of expiration of his term as sheriff and shall collect and account for same as provided by law, and he shall have until the first day of June after his term of office as sheriff has expired to make a settlement for all charges of taxes made against him and for all tax monies received by him, both as sheriff and as special tax collector, with the Department of Revenue and the fiscal court of his county and to receive his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff. It is further provided that if he chooses to act as special tax collector, the bond which he made before or as of the preceding June first shall remain in full force and effect. His compensation and such other necessary expenses incident to the collection of unpaid tax bills shall be the same as now or which may hereafter be provided by

law for the sheriff of the county in which the duties are performed; provided, however, that the special tax collector's personal compensation shall not exceed two thousand eighty-three dollars and thirty-five cents ($2,083.35), and provided further that if the incoming sheriff is appointed special tax collector, income arising from commissions for collection of taxes as such special tax collector shall be treated as a part of the income of the sheriff for the current year.

Should the outgoing sheriff decline or fail to act as special tax collector, a vacancy shall be declared to exist which shall be filled by appointment by the county judge who may appoint the incoming sheriff to act as special tax collector.

The Special tax collector is hereby required to make all reports and to pay over all monies and to perform every duty that is required by law of a sheriff with respect to state, county, and district ad valorem and poll taxes and he shall be subject to all laws, penalties, and all rules and regulations of the Department of Revenue relating to ad valorem and poll taxes which are applicable to the office of sheriff.

On the failure of any outgoing sheriff or collector for ten days to comply with the provisions of this section, he shall be deemed guilty of a misdemeanor and upon conviction be fined a sum of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) and be liable on his bond for any default.

§ 3. That Section 4131 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same is hereby repealed, amended, and re-enacted so that when re-enacted said section will read as follows:

On the failure of the sheriff or collector to execute bond and qualify as hereinbefore provided, he shall forfeit his office, and the county court may appoint a sheriff or collector to fill the vacancy until a sheriff or collector is elected, or it may appoint a collector for the county of all moneys

due the state, county or taxing district authorized to be collected by the sheriff, or it may appoint a separate collector of all the moneys due the state, county or any taxing district thereof during the vacancy in the office of sheriff; and in the event the county court fails for thirty days to appoint a collector of money due the state, the Department of Revenue may appoint a collector thereof. Such collectors shall, within ten days after their appointment, execute bond as required of the sheriff, to be approvad by the county court, and if the bond be not executed within said time the appointment of another collector may in like manner, be made and qualified; but such collector shall only be required to give bond for and collect such taxes or moneys as may be mentioned or provided for in the order of the county appointing him.

§ 4. That section 4143 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended, and reenacted so that when re-enacted said section will read as follows:

The sheriff or collector of revenue in each county of this Commonwealth shall on or before the tenth day of each month, or more often as may be required by the Department of Revenue for the purpose of keeping the sheriff from having funds in excess of the amount of his bond, report under oath to the Department of Revenue the amount of all state taxes he has collected during the preceding month, or for such period as the Department may require, as provided above, and shall at the time of making such report pay to the Department of Revenue for deposit, as prescribed by law, with the State Treasurer, all taxes which he has collected for the Commonwealth for said preceding month or period. Any sheriff or special tax collector who shall fail to report, as provided, shall be liable to indictment in the Franklin Circuit Court, and upon conviction, shall be fined a sum of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each offense, and the Department

of Revenue may report to the grand jury of Franklin County at each term of said court any such sheriff or collector failing to report as required. Any sheriff or collector failing to pay over any taxes collected by him and due the Commonwealth, as provided by law, shall be required by the Department of Revenue to pay a penalty of six per cent (6%) and interest at the rate of six per cent (6%) per annum on such taxes, and the Department of Revenue in its settlement with the sheriff or collector, shall charge him with the penalties accruing under the provisions of this Act.

§ 5. That section 4146 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended, and re-enacted so that when re-enacted said section will read as follows:

The sheriff or collector of the state and county revenue of each county of this Commonwealth, shall, on or before the tenth day of each month, or more often as may be required by the county court for the purpose of keeping the sheriff or collector from having funds in his possession in excess of the amount of his bond, in each year, report under oath to the county court of his county the amount of state and county taxes he has collected during the month preceding, together with all fines, forfeitures or money, or any other account that shall have been received or collected by him for said preceding month, showing in said report the amount collected for and belonging to each particular fund, for which such revenue or money may be intended, and the disposition of such revenue or money collected by him. At the time of making the report to the county court, the sheriff or collector shall pay to the county treasurer, or other officer designated by the fiscal court, all funds belonging to the county which were collected by him during the period covered in the report. Any sheriff or collector failing to pay over any taxes collected by him and due the county, as provided by law, shall be required by the fiscal court to pay a penalty of

six per cent (6%) and interest at the rate of six per cent (6%) per annum on such taxes and the fiscal court in its settlement with the sheriff or collector shall charge him with the penalties accruing hereunder. The reports herein referred to shall be filed and recorded in separate books furnished by the county court for that purpose, which shall be open for inspection in the office of the county clerk. Any sheriff or collector who shall fail to report as herein required shall be liable to indictment in the county of his residence, and fined not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00).

§ 7. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

§ 8. WHEREAS, it is necessary, for the efficient performance of the duties of the Department of Revenue and the sheriffs of the counties of this Commonwealth in the collection without delay of taxes due the Commonwealth, an emergency is hereby declared to exist, and this Act shall take effect from and after its passage and approval, as provided by law.

S. B. 90. AN ACT to repeal Chapter 827 of the Acts of 1873, entitled "AN ACT to provide for the registration of bonds and obligations issued by counties, districts, municipal corporations, and other corporations."

Said bill is as follows, viz.:

WHEREAS, chapter 827 of the Acts of 1873 has never been compiled in an edition of the statutes and has never been repealed, now therefore:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Chapter 827 of the Acts of 1873 is repealed.

S. B. 76. AN ACT to repeal, amend and re-enact Sections 3235h-3, 3235h-4, 3235h-6, and 3235h-10, Baldwin's Ken-

tucky Statutes, Carroll's Official Edition 1939, all relating to and constituting a portion of charters of cities of the second class, providing for the creation of a civil service commission, prescribing their duties and declaring their qualifications: providing for examination of all applicants for municipal employment; providing for the dismissal of employees and providing for appeal to the Circuit Court and Court of Appeals; providing for the creation of a Board of Trustees of a pension fund, prescribing their duties, authorizing the establishment and maintenance of a pension fund, and stipulating a limitation by such cities with limitations, provided for in this Act, and the sections of the statutes herein amended; providing herein for the preservation of employees rights in the pension fund, and the protection of the civil service status of city employees, and declaring the legislative intent with reference to the passage of this Act by section, provision and exception.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1: That Section 3235h-3 of Baldwin's Kentucky Statutes, Carroll's Edition 1939, be, and the same is hereby repealed, amended and re-enacted so that when repealed, amended and re-enacted, said section shall read, as follows:

§ 3. POWERS AND DUTIES OF THE COMMISSION. The civil service commission shall prescribe, propound and conduct such examinations as are proper commensurate with vacant positions within the various departments of said City, according to the classifications prescribed by said Ordinance, and as often as may be necessary to maintain an eligible list of not less than three for each position so to be filled. The times and place for holding such examinations shall be fixed by said civil service commission, and

notice thereof given the public by advertisement in the official newspaper of the city at least ten days prior to the date therein fixed, stating the time, place and qualifications required of applicants, and pertinent facts relative to positions to be filled.

The civil service commission shall as soon after all examinations as is practicable, certify to the City Manager or such other appointing authority of said City a list of the applicants so examined, according to the result of the examinations, and the one possessing the highest average shall be listed first and all others shall be listed numerically according to the result of such examinations. Every soldier, sailor, marine, member of the Army nurse crops or Red Cross nurse who has served in the army or navy or hospital service of the United States in the war with the Central Powers of Europe between the dates of April 16, 1917, and November 11, 1918, who has been honorably discharged therefrom and is a resident and voter of said City, and who is an applicant for any positions in the classified service of said City shall be entitled to five per cent increase on his examination mark.

SECTION 2: That Section 3235h-4, Baldwin's Kentucky Statutes, Carroll's Edition 1939, be, and the same is hereby repealed, amended, and re-enacted, so that when repealed, amended and re-enacted, said section shall read, as follows:

§ 4. APPOINTMENTS TO BE MADE BY CITY MANAGER OR OTHER APPOINTING AUTHORITY. The City Manager of such cities as operate under the City Manager Act and in other cities the appointing authority shall make all appointments to municipal positions under this Act, and the appointments so made shall be made only from the lists of applicants certified in writing and furnished to him by the civil service commission after the examinations provided for by the preceding section of this Act as herein amended. Appointments to the various positions shall be made only by the selection of one of the three holding the

highest averages in the particular class and grade wherein the vacancy is to be filled.

Whenever it is imperative to fill a vacancy in any position in classified civil service prior to the time the commission is able to certify to the appointing officer a list of as many as three persons eligible for appointment after the competitive examinations provided for in this act, the appointing officer shall nominate a competent person from the same class or of the next lower rank to the commission for non-competitive examination and if such nominee shall be certified by the commission as qualified after such non-competitive examination he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after the competitive examination aforesaid; but such provisional appointment shall continue in force only until a regular appointment can be made from the eligible list prepared by the commission, and such eligible list shall be prepared within thirty (30) days after such vacancy occurs. In case of great emergency and when no one upon the eligible list or by promotion from a lower rank is available, as herein provided, an appointment may be made by the city manager or other appointing authority without the examination provided for by this Act and the preceding section of this Act, but in no case shall such appointment continue longer than thirty (30) days, and in no case shall successive appointments be made of the same person, or other persons, to such vacancy; provided, however, that interim or temporary appointments made necessary by reason of sickness, illness or disability of regular officers or employees shall continue only during such period of sickness, or disability; and provided, further, that the death of an employee shall not be construed as creating the emergency, referred to as authorizing the appointment without examination.

In case of a vacancy in a position in the classified service, where peculiar and exceptional qualifications of a particular

professional or educational character are required, and upon satisfactory evidence that for reasons stated in writing, by the appointing authority, competition in such case is impracticable, and that the position can best be filled by a person of unusual and superior qualifications and abilities, the Commission may suspend the provision of the Statute and/or the Ordinance requiring competition in such instance.

Where the service to be rendered by an appointee in the classified service or for a temporary period not to exceed thirty (30) days, and the need of such service is imperative and urgent, the City Manager or appointing authority may select for such temporary service any person on the proper list of those who have resided and eligible to vote in the city for more than one year and is otherwise eligible as herein provided for permanent appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not effect his standing on the register for permanent employment; nor shall the period of temporary service be counted as the part of the probationary service in case of subsequent appointment to a permanent position.

No person shall be certified by the commission to the City Manager or appointing authority from an eligible list more than four times to the same City Manager or appointing authority for the same or similar position.

SECTION 3: That Section 3236h-6, of Baldwin's Kentucky Statutes, Carroll's Edition 1939, be, and the same is hereby repealed, amended, and re-enacted, so that when repealed, amended and re-enacted, said section shall read, as follows:

§ 6. QUALIFICATIONS OF APPLICANT FOR MUNICIPAL EMPLOYMENT. The civil service commission shall examine all applicants for municipal employment as to their physical and mental qualifications to the particular

classification wherein the applicants, as defined by Ordinance, are seeking employment. No person shall be eligible to take the examination who is not an actual resident within and a registered voter within the city for more than one year, and is known to be a person of sobriety and integrity and had been or is a law abiding citizen, nor shall any person be appointed to municipal employment on account of political partisan service rendered by him or his family or on account of political sentiment or affiliation or who is over sixty years of age, nor shall any person in municipal employment under this Act be removed or discharged or reduced in grade on account of or paid for any political opinion, and all applicants must be twenty-one years of age or over and must be able to read and write and understand the English language.

Any employee under the terms and provisions of this Act shall not coerce or persuade another, or in any way himself actively participate in any primary or regular election, or cause or procure others so to do.

SECTION 4. That Section 3235h-10, of Baldwin's Kentucky Statutes, Carroll's Edition 1939, be, and the same is hereby repealed, amended and re-enacted, so that when repealed, amended and re-enacted, said sction shall read, as follows:

§ 10. Any such City heretofore or hereafter adopting the provisions of this Act shall provide in said Ordinance or by subsequent Ordinances for a pension fund for the benefit of the employees under the civil service of such city and for that purpose may create a board for the pension fund and designate trustees of said Board, and such City shall provide for the creation and maintenance of a pension fund by the levy of a tax of not exceeding Five ($0.05) cents on each One Hundred ($100.00) Dollars value of taxable property in said City, the proceeds of such tax to be paid to the pension fund in cash, and may assess monthly such amount or per cent of the salary or wages of said employees as may be equitably

determined on a fair actuarial basis not to exceed, however, a per cent greater than five per cent of the monthly salary of such employee, such assessment to be deducted from the employees salary, and paid in cash into the pension fund, and may fix the powers of the trustees of the pension board and determine the eligibility of employees or their dependents to a pension or other benefit and may provide a monthly allowance for said employees eligible for a pension not to exceed, however, one-half of the monthly salary or wage of said employee at the time of his retirement. Provided, however, that temporary employees of said city appointed without the examinations provided for in this and the Act hereby amended shall not be compelled to contribute to any pension fund and shall not be eligible to the benefits therefrom.

Provided, further, that in no year shall the contribution by the city to said pension fund, in the manner in this section provided, be less in the total than the total amount assessed upon and deducted from the salary or wages of said employees.

It shall be the duty of the trustees of the pension fund to report in writing and in detail to the Mayor of the city at least once every three months, the receipts, expenditures, and financial status of said trust fund, stating the places of deposit of funds, or the character of investment made of same, and it shall be the duty of the Mayor to cause to be posted in at least three places where city employees frequent and report, copies of said report of said trustees.

STATUTES NOT REPEALED,—EMPLOYEES' INTEREST IN PENSION FUND AND CIVIL SERVICE STATUS PRESERVED.

SECTION 5. It is the express intention of this Act that the following Sections of the 1936 Edition of Carroll's Kentucky Statutes as the same may have been amended, are not effected in any way or manner, by conflict, implications or otherwise:

Section 3137, 3138, 3138-1, 3138-2, 3138-3, 3138-4, 3138-5, 3139, 3140, 3141, 3142, 3142-b3, 3142-b4, 3142-b5, 3142-b6, 3142-b7, 3142-b8, 3142-b9, 3142-b10, 3132-b11, 3142-b12, 3142-b13, 3142-b14, 3142-b15, 3142-b16, 3142-b17, 3142-b18, and 3142-b19 and it is the further intention of this Act that the provisions contained in this Act are independent of, separate and apart from the laws governing and regulating city employees, and the appointment of city employees in the herein enumerated sections of the 1936 Edition of Carroll's Kentucky Statutes, and amendments thereto, in their relation to the Police and Fire Departments of any City of the second class and the members thereof.

It is hereby further declared to be the intention of this Act to preserve and sustain any rights, benefits, choses in action or claims owned or possessed by any employee of the city, or their estate or next of kin at the time of taking effect of this Act, which arise under or grow out of the provisions of Chapter 53 of the Acts of the General Assembly of the Commonwealth of Kentucky, which Act was approved March 2, 1938, amending charters of cities of the second class, and creating a civil service commission, as well as any rights, benefits, choses in action, or claims arising under any Ordinance of any cities of the second class, passed under the powers conferred upon such cities by said Chapter 53 of the Acts of the General Assembly of 1938, nor shall the acquired status of any employee under the civil service system thereby authorized be changed, or his rank or classification be altered, nor shall the immunity from examination, or the rank or grade acquired by previous service to the City, and the provisions of the Civil Service Act, of which this is an amendment and/or the Ordinances passed thereunder be destroyed, reduced or altered.

SECTION 6. LEGISLATIVE INTENT TO ENACT BY SECTION, PROVISO AND EXCEPTION. If any section of this Act be held to be invalid or unconstitutional, such hold-

ing shall not effect any other Section of this Act, it being the intention of the General Assembly in enacting this Act to enact each section separately; and if any proviso or exception contained in any section of this Act shall be held to be invalid or unconstitutional, such holding shall not effect the remainder of such Section, it being the intention of the General Assembly to enact each section of this Act and such proviso thereof and such exception thereto separately.

S. B. 88. AN ACT to repeal section 4 of 1924 House Bill No. 44, which amended section 415b-9 of Carroll's Kentucky Statutes, 1922 edition, relating to pensions for Confederate veterans, by amending section 415b-9 of Carroll's Kentucky Statutes, 1936 edition, to read like section 415b-9 of Carroll's Kentucky Statutes, 1922 edition.

Said bill is as follows, viz.:

WHEREAS, House Bill No. 44 of 1924 was vetoed by the Governor without stating his reasons therefor, as required by section 88 of the Constitution, and said House Bill therefore became a law ten days after the adjournment of the 1918 General Assembly; and

WHEREAS, the General Assembly desires to clarify the status of the law on the subject matter now compiled as section 415b-9 of Carroll's Kentucky Statutes, 1936 edition, and the repeal of 1924 House House Bill No. 44 would repeal all law compiled under section 415b-9;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 415b-9 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

That no person shall be entitled to the benefits of this Act who is able to earn a support by manual labor; or

Who is able to earn a support by reason of his or her knowledge, art, or skill, in any profession, trade or craft; or

Who receives a pension from the Unted States or any state or foreign government, or any other source; or

Who removes from this state or is absent therefrom for a period of three months; or

Who possesses property of the value of two thousand five hundred dollars; or

Who possesses an income to the amount of three hundred dollars a year; or an income equivalent to three hundred dollars a year; or who is living with his wife who possesses property in fee simple or a life interest of the value of two thousand five hundred dollars, or an income of three hundred dollars per year; or

Whose support is suitably provided for and secured by reason of a contract or agreement with a person able to provide such support; or

Who by reason of combined partial ability to earn a support and income and property, or any and all of these combined is able to obtain an income equivalent to $300.00 a year.

S. B. 89. AN ACT to re-enact section 22 of Chapter 35 of the Acts of 1914, compiled as section 415b-22 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

WHEREAS, it appears that section 415b-22 of Carroll's Kentucky Statutes was repealed by 1924 House Bill No. 44, and that said bill was vetoed by the Governor without written reasons being returned to the House; and

WHEREAS, it is the intention of the General Assembly to clarify the status of this section and to re-enact it, now therefore:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 22 of Chapter 35 of the Acts of 1914, com-

piled as section 415b-22 of Carroll's Kentucky Statutes, 1936 edition, is re-enacted to read as follows:

415b-22. The commissioner of pensions shall once every year make and publish a report showing the name, county, and post office address of each person who is receiving a pension under this act and copies thereof shall be furnished to the county judge, county attorney, county clerk, and sheriff, of each county in the state.

S. B. 85. AN ACT to re-enact section 4042a-9 of Carroll's Kentucky Statutes, 1922 edition.

Said bill is as follows, viz.:

WHEREAS, there is some doubt whether the General Assembly, in enacting section 6 of Chapted 109 of the Acts of 1924, intended thereby to repeal section 4042a-9 of Carroll's Kentucky Statutes, 1922 edition:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4042a-9 of Carroll's Kentucky Statutes, 1922 edition, is re-enacted to read as follows:

Before the county court shall grant such a certificate of allowance, the county tax commissioner and his deputies, if any, shall in open court make and file the following affidavits, subscribed and sworn to by them before the clerk of the county court, viz.:

"I do swear that I have not received from any person a list of taxable property and returned the same until the person rendering the list has made oath to the truth of the same; and I do further swear that I have in no instance assessed any property at a greater or less sum than I deemed a fair cash value, estimated at the price it would bring at a fair voluntary sale."

Any county tax commissioner or deputies who shall make affidavit, knowing the same to be false in any particular, shall

be deemed guilty of false swearing, and, on conviction, be punished accordingly.

S. B. 87. AN ACT to repeal 1912 House Bill No. 115, relating to the giving and receiving of tips.

Said bill is as follows, viz.:

WHEREAS, House Bill No. 115 of 1912 was vetoed by the Governor without stating his reasons therefor, as required by section 88 of the Constitution, and the said House Bill therefore became a law ten days after the adjournment of the 1912 General Assembly; and

WHEREAS, the General Assembly desires to clarify the law on the subject of giving and receiving tips:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. House Bill No. 115 of 1912 is repealed.

S. B. 83. AN ACT to repeal 1918 House Bill No. 393 and to re-enact sections 4758-1 to 4758-4 of Carroll's Kentucky Statutes, 1936 edition, all relating to vagrants.

Said bill is as follows, viz.:

WHEREAS, House Bill No. 393 of 1918 was vetoed by the Governor without stating his reasons therefor, as required by section 88 of the Constitution, and the said House Bill therefore became a law ten days after the adjournment of the 1918 General Assembly; and

WHEREAS, the said House Bill repeals Chapter 132 of Carroll's Kentucky Statutes, entitled "Vagrants," so that the repeal alone of the House Bill would leave no existing law under the chapter entitled "Vagrants"; and

WHEREAS, the General Assembly desires to clarify the law as to vagrants by destroying chapter 55 of the Acts of 1904:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. House Bill No. 393 of 1918 is repealed.

§ 2. Section 4758-1 of Carroll's Kentucky Statutes, 1936 edition, is re-enacted to read as follows:

4758-1. The following persons shall be deemed to be vagrants, to-wit:

(1) Any able-bodied male person who habitually loiters or rambles about without means to support himself, and who has no trade, calling or profession to make an honest livelihood;

(2) Any able-bodied male person who is without visible means of support, and who habitually fails or refuses to engage in honest labor for his own support, or for the support of his family, if he has one;

(3) Any able-bodied male person who purposely deserts his wife or children, leaving them, or any of them, without suitable subsistence or suitable means of subsistence, and himself being idle and dissolute;

(4) Any able-bodied person, male or female, who has no visible means of support and who habitually refuses to work, and who habitually loiters on the streets or public places of any village, town or city.

§ 3. Section 4758-2 of Carroll's Kentucky Statutes, 1936 edition, is re-enacted to read as follows:

4758-2. Any person found guilty of the offense of vagrancy shall, for the first offense, be fined ten dollars ($10.00) or imprisonment in the workhouse, if there be one, for thirty days; if not, imprisonment shall be in the county jail thirty days, or the punishment may be both such fine or imprisonment. For the second offense and all subsequent offenses, sixty days' imprisonment in the workhouse, if there be one, if there be none, in the county jail. Any one who is fined under this act shall be required to work at hard labor at

the rate of one dollar ($1.00) per day until fine and cost are satisfied. Any one who is imprisoned, either in workhouse or jail, shall be required to work at hard labor during the term of his imprisonment.

§ 4. Section 4758-3 of Carroll's Kentucky Statutes, 1936 edition, is re-enacted to read as follows:

4758-3. Circuit courts, police courts, quarterly courts, and justices of the peace shall have jurisdiction of the offense of vagrancy, and for the purpose of trying a person charged with vagrancy, police courts, quarterly courts and justices' courts shall be deemed to be always open.

§ 5. Section 4758-4 of Carroll's Kentucky Statutes, 1936 edition, is re-enacted to read as follows:

4758-4. It shall be the duty of all sheriffs, constables, marshals, and policemen to keep a watch for vagrants at these places where they are accustomed to congreagte. And if any of these officers has reason to believe that a vagrant habitually infests a public place or street, it shall be the duty of said officer to warn him to leave such place and go to work. If two or more vagrants habitually loiter about any street or public place, it shall be the duty of such officers to disperse them, using no more force than is reasonably necessary for that purpose.

S. B. 82. An Act to repeal 1926 House Bill No. 463, relating to toll bridge companies.

Said bill is as follows, viz.:

WHEREAS, House Bill No. 463 of 1926 was vetoed by the Governor without stating his reasons, as required by section 88 of the Constitution, and the said House Bill therefore became a law ten days after the adjournment of the General Assembly; and

WHEREAS, the General Assembly desires to clarify the law as to toll bridge companies:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. House Bill No. 463 of 1926 is repealed.

Ordered that said bills be printed and referred.

And that they had adopted a concurrent resolution which originated in that body, viz.:

S. Res. 27. Whereas, there are more than forty-five thousand miles of poorly maintained county-system roads in Kentucky, and a large mileage of same in other states of the nation, and

Whereas, much of this mileage of bad county roads is necessary for the Rural Free Delivery of United States mails, and for transportation of children to distant schools, and,

Whereas, this tremendous mileage of bad roads is the only outlet for daily business, social and other purposes, available for the great majority of the rural population of the country, and

Whereas, many miles of this county-system road have been constructed and hard-surfaced by W. P. A. labor and materials and by counties, and said large mileage of roads, thus improved, is suffering serious damage and disintegration for the want of maintenance, due to the lack of funds, therefore

Be it Resolved by the Senate of Kentucky, the House of Representatives concurring:

That the Congress of the United States be memorialized to enact all laws, and amendments to existing laws, and to do all other things necessary to aid both in the speedy construction and the substantial maintenance of the said county-system roads of Kentucky and of other states of the nation, for the urgent reasons and purposes herein set forth.

Be It Further Resolved, that the Clerk of the Senate forward one copy each of this Resolution to the President of the

United States, to the President of the Senate, and to the Speaker of the House of Representatives of the United States, and to our Senators and Representatives in the United States Congress.

Said resolution was then concurred in.

And that they had concurred in a resolution which originated in this House entitled:

H. Res. 63. Resolution felicitating the county of Kenton and its citizens in the celebration of the One Hundredth Anniversary of its creation.

And that they had passed bills and a Joint Resolution which originated in this House entitled:

H. B. 96. An Act amending Sec. 14 of Chapter 111 of the Acts of 1938, compiled as Sec. 1496-14 of Carroll's Kentucky Statute Service, May, 1938, to permit the registration of voters in voting precincts within a city of the third class.

H. B. 71. An Act authorizing the fiscal court of any county to institute condemnation proceedings to acquire lands for public roads, etc.

Ordered that said bills and resolution which originated in this House, be delivered to the Enrolling Clerk of this House.

Mr. Hunnicutt moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of reconsidering the vote by which the clincher motion was applied to a bill entitled:

H. B. 161. An Act to prohibit the taking, enticing, assisting to escape, or the encouragement to escape of lawfully committed inmates from the State Hospitals, etc.

Which was passed by this House on yesterday, as amended by the Senate.

Said motion was agreed to.

(For bill see House Journal of yesterday)

(For amendments as proposed and adopted by the Senate and concurred in by the House, see Journal of yesterday)

Thereafter such reconsideration, Mr. Hunnicutt moved that the House do now concur in Senate Amendment No. 3, which is an amendment to the title of said bill.

Said motion was agreed to.

Said amendment was then concurred in.

Thereupon Mr. Hunnicutt moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Bolling moved that Mr. Chester Silvers, former member of this House, be appointed an Honorary Page.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 53. AN ACT to amend and re-enact Section 4399-2, Ky Statutes, 1939 Supplement, being Chapter 4, p. 134, of the Acts of the General Assembly at its 1938 Regular Session, relating to the qualifications of members of boards of education.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4399-22, Ky. Statutes, 1939 Supplement, being Chapter 4, page 134, of the Acts of the General Assembly at its regular 1938 session, be amended and re-enacted and when so amended and re-enacted shall read as follows:

A person to be eligible to membership on a board of education must have attained the age of twenty-four years, must have been a citizen of the Commonwealth of Kentucky for at least three days preceding his election and must be a voter of the district for which he is elected. He must not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his residence. A board member shall be eligible for re-election unless he becomes disqualified as herein provided.

No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to such member as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law, or first cousin, and the majority vote of the remainder of the board shall be required in case of appointment or employment of such person.

No person shall be eligible to this office who at the time of his election is directly or indirectly interested in the sale

to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended. If, at any time, after the election of any member of such board, he shall become interested in any such contract with or claims against the board, or if he shall after election become a candidate for any office or agency for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he shall move his residence from the district for which he was chosen or if he shall do or incur anything which would have rendered ineligible for re-election, his office shall without further action be vacant, and it shall be filled as hereafter provided.

No person shall be eligible to serve as a member of a board of education who has been removed from membership on a board of education for cause.

All laws or parts of laws in conflict herewith are hereby repealed.

Mr. Neikirk offered the following amendments to said bill, viz.:

1. Amend H. B. 53 on page 2, line 25 by inserting the word "or" following the word "agency"

2. Amend H. B. 53 on page 2, line 29 by inserting the word "him" preceding the word "ineligible"

Said amendments were each agreed to.

Mr. Daugherty moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Cecil Florence	Hobart Rayburn
J. Everett Bach	Wayne Freeman	Thomas Rigdon
H. T. Baker	Eugene Gough	W. H. Riley
G. M. Ballard	Van Y. Greene	Joe E. Robinson
Robert E. Barry	C. L. Hammons	Lyman Roll
Wm. T. Beard	T. H. Hickey	Jack Savage
Alvis S. Bennett	Clyde S. Howard	Carl Scheben
Sterling B. Blake	Chester Huffines	Ray O. Shehan
J. F. Bosworth	W. H. Hunt	Faust Y. Simpson
W. S. Brim	R. L. Jackson	Bruce Sloan
C. J. Bronston	Chas. X. Jones	Otto Smither
Haynes Carman	W. A. Lamkin, Jr.	E. T. Sparks
Charles M. Carter	Harvey D. Leonard	G. C. Springate
James W. Chapman	Edward Leslie	Ray J. Stengel
S. B. Chrisman	W. Paul Lyon	Henry Stewart
John H. Cox	C. C. May	W. St. Clair Stuart
Pink G. Curd	Frank C. McElwain	Otis C. Thomas
F. E. Daugherty	E. Hayes McMakin	Erna E. Tyra
Louis B. Dugan	John B. Mollette	Walter R. Vansant
D. E. Edwards	J. Lee Moore	S. J. Wagner
Harry W. Ennis	Joe T. Morgan	Porter Wallace
R. R. Ernst	C. Homer Neikirk	Otis White
Carlos Fallis	Carl D. Perkins	James H. Woods
T. P. Fitzpatrick	B. W. Porter	—71

Those who voted in the negative were—

Randolph A. Brown	T. B. McConnell	Henry Ward
Stanley S. Dickson	Norris McPherson	H. L. Waterfield
Ralph C. Hamilton	Stanley C. Moebus	
John M. Hunnicutt	Davis Moore	—10

Mr. Neikirk offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 53 by striking out the numbers "4399-2" and inserting the numbers "4399-22"

Said amendment was agreed to.

Resolved that the title thereof be as aforesaid.

Mr. Neikirk moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 170. AN ACT to amend Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938, entitled An Act to Provide Approved High School Service for all pupils.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That in order to clarify the law and avoid misunderstanding and possible litigation, Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938 be amended by striking out of its last sentence the word *maintenance* and inserting in lieu thereof the words *board and room,* so that when amended it shall read as follows:

"It shall be the duty of the board of education of each county to provide approved high school service within the county for all children of high school grade residing in the county district, either by maintaining the school or by contract with an independent district within the county, and the

duty of each independent district board of education to provide such service within its district, or by contract with a city or other independent district within the county, for all children of high school grade residing within such district; provided that if the number of such pupils of either race is not sufficient in any county or independent district to maintain a high school, the board shall provide it by transporting them daily to an approved high school in another county or district, or in lieu of transportation shall provide for their board and room within reasonable walking distance of such school if it is found more feasible or more economical to do so, said board and room in no case to cost more than one hundred dollars ($100.00) per year for any pupil."

Mr. Anderson offered the following amendment to said bill, viz.:

Amend H. B. 170 on page 1, line 8 by adding after the word "grade" in line 8, the words "under twenty-one years of age."

Said amendment was agreed to.

Mr. Anderson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Eugene Gough	Hobart Rayburn
J. Everett Bach	Van Y. Greene	Thomas Rigdon
H. T. Baker	Ralph C. Hamilton	Joe E. Robinson
G. M. Ballard	C. L. Hammons	Lyman Roll
Robert E. Barry	T. H. Hickey	Jack Savage
Wm. T. Beard	Clyde S. Howard	Carl Scheben
Alvis S. Bennett	Chester Huffines	Leon J. Shaikun
Douglas T. Bolling	John M. Hunnicutt	Ray O. Shehan
J. F. Bosworth	W. H. Hunt	Faust Y. Simpson
W. S. Brim	R. L. Jackson	Bruce Sloan
C. J. Bronston	J. B. Jarboe, Jr.	Otto Smither
Randolph A. Brown	Chas. X. Jones	E. T. Sparks
Haynes Carman	John S. Juett	J. Claude Stacy
Charles M. Carter	W. A. Lamkin, Jr.	Ray J. Stengel
James W. Chapman	Robert E. Lee	Henry Stewart
S. B. Chrisman	Edward Leslie	W. St. Clair Stuart
John Coulter	W. Paul Lyon	T. M. Swope
John H. Cox	C. C. May	Otis C. Thomas
Pink G. Curd	Frank C. McElwain	Erna E. Tyra
F. E. Daugherty	Norris McPherson	J. Wood Vance
Stanley S. Dickson	Stanley C. Moebus	Walter R. Vansant
Louis B. Dugan	John B. Mollette	S. J. Wagner
D. E. Edwards	Davis Moore	Porter Wallace
Harry W. Ennis	Joe T. Morgan	Harry F. Walters
R. R. Ernst	C. Homer Neikirk	Henry Ward
Carlos Fallis	Carl D. Perkins	H. L. Waterfield
T. P. Fitzpatrick	B. W. Porter	Otis White
Wayne Freeman	Kleber F. Price	—83

Resolved that the title thereof be as aforesaid.

Mr. Anderson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the privilege of the floor be extended to Mr. and Mrs. Pursel Barnett.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled:

H. B. 2. An Act to amend and re-enact Chapter 65, Acts of the General Assembly of 1932, and to change and fix the time of terms of court in the Tenth Judicial District.

With amendments thereto as proposed and adopted by the Senate.

Mr. Hunnicutt moved that said bill and amendments thereto, be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 310. AN ACT to create the office of stenographer or clerk to the county judge in all counties containing a part of a city of the third class located more than fifteen miles from the county seat in said county and fixing the powers and duties and salary of said stenographer or clerk to the county judge.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby created the office of stenographer or clerk to the county judge in all counties containing a part of a third class city located more than fifteen miles from the county seat in said county; said stenographer or clerk to the

county judge shall be appointed by the county judge and shall serve at the pleasure of the county judge and may be removed at any time by the county judge.

§ 2. It shall be the duty of said stenographer to do stenographic work and typewriting for said county judge, and said stenographer shall perform such other duties as may be assigned to him by said county judge.

§ 3. The salary of said stenographer or clerk may be fixed by the fiscal court not to exceed $1,500.00 per annum, payable out of the county levy in equal monthly installments; provided, however, said stenographer shall not be appointed except when authorized by the fiscal court of the county.

§ 4. Said stenographer shall by virtue of his office have the same power of administering an oath as a notary public.

Mr. Hammons offered the following amendment thereto by way of Substitute therefor, viz.:

An Act relating to stenographers or clerks for county judges, and amending Sec. 1 of Chapter 28 of the Acts of 1938, first extraordinary session, compiled as section 1061a-1 of Baldwin's Kentucky Statute Service, May, 1938.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. Section 1 of Chapter 28 of the Acts of 1938, first extraordinary session, compiled as section 1061a-1 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

1061a-1. *Stenographer in Certain Counties.* There is created the office of stenographer or clerk to the county judge in all counties containing a city of the first, second, third or fourth class, or containing a part of a city of the third class located more than fifteen miles from the county seat of the county. The stenographer or clerk shall be appointed by the

county judge for a term of four years, but may be removed at any time by the county judge.

Said Substitute was then adopted.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. L. Hammons	Carl D. Perkins
J. Everett Bach	T. H. Hickey	B. W. Porter
H. T. Baker	Clyde S. Howard	H. O. Porter
G. M. Ballard	Chester Huffines	Kleber F. Price
Robert E. Barry	John M. Hunnicutt	Hobart Rayburn
Wm. T. Beard	W. H. Hunt	Thomas Rigdon
Alvis S. Bennett	J. B. Jarboe, Jr.	W. H. Riley
J. F. Bosworth	Chas. X. Jones	Joe E. Robinson
W. S. Brim	John S. Juett	Lyman Roll
Haynes Carman	William K. King	Carl Scheben
S. B. Chrisman	W. A. Lamkin, Jr.	Leon J. Shaikun
John H. Cox	Robert E. Lee	Ray O. Shehan
Pink G. Curd	W. Paul Lyon	Faust Y. Simpson
F. E. Daugherty	C. C. May	Bruce Sloan
Louis B. Dugan	T. B. McConnell	Otto Smither
Forest C. Easley	Frank C. McElwain	E. T. Sparks
D. E. Edwards	Norris McPherson	Ray J. Stengel
Harry W. Ennis	John B. Mollette	Henry Stewart
R. R. Ernst	Davis Moore	W. St. Clair Stuart
Wayne Freeman	J. Lee Moore	Otis C. Thomas
Eugene Gough	Joe T. Morgan	Erna E. Tyra
Ralph C. Hamilton	C. Homer Neikirk	J. Wood Vance

Walter R. Vansant	Henry Ward	James H. Woods
S. J. Wagner	H. L. Waterfield	
Porter Wallace	Otis White	—73

Resolved that the title thereof be as amended.

Mr. Hammons moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 266. An Act to repeal, amend and re-enact Sec. 1061a-1 Carroll's Kentucky Statutes, 1936 Edition, relating to a stenographer, or clerk for county judges.

Mr. Joe E. Robinson moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 191. AN ACT to amend section 273 of Carroll's Criminal Code of Practice, 1938 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 273 of Carroll's Criminal Code of Practice, 1938 edition, is amended to read as follows:

Application for a new trial must be made by the defendant *and ruled on by the trial court* at the same term at which

the verdict is rendered. *If the application is not ruled on at the same term, it shall stand denied as a matter of law.*

§ 2. Since this amendment is intended to increase the speed of criminal trials, and prevent undue delay in the administration of justice, an emergency is declared to exist, and this Act shall take effect immediately upon its passage and approval by the Governor.

Mr. Perkins offered the following amendments to said bill, viz.:

1. Amend H. B. 191 on page 1, section 1, line 4 by striking out the period after the word "rendered" and inserting after the word "rendered" the following:

"unless the verdict is rendered on the last day of the term, in which event the application must be made and ruled on by the third day of the next term."

2. Amend H. B. 191 on page 1, section 1, line 5 by striking out the words "at the same term" and inserting in lieu thereof the following:

"within the time provided by this section"

Said amendments were each agreed to.

Mr. Perkins moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Rayburn moved that said bill be laid on the table.

Said motion was agreed to.

And so said bill was tabled.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 33. A JOINT RESOLUTION, directing the payment to William D. Overton of the sums directed to be paid pursuant to the Joint Resolution of the General Assembly, for the benefit of William D. Overton approved March 15, 1924, and appearing in the Acts of the General Assembly of 1924, as Chapter 297, on Page 614.

Said resolution is as follows, viz.:

WHEREAS, the Act of the General Assembly, 1940, known as the Budget Act, does not specifically mention the item herein referred to:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That said Budget Act shall in no wise be construed as a repudition of the obligation of the Commonwealth of Kentucky provided in the Act approved March 15, 1924, being Chapter 297 of the Acts of 1924, nor shall said Budget Act of 1940 be construed as a repeal of said Act of March 15, 1924, providing the payment of Fifty Dollars ($50.00) per month to William D. Overton so long as he shall live.

§ 2. That the Auditor of Public Accounts is directed to draw his warrants upon the Treasurer payable to the said William D. Overton, in such amounts and at such times as they severally mature pursuant to said Act of March 15, 1924.

Mr. Fallis offered the following amendment to said resolution, viz.:

Amend H. Res. 33 by striking out the following words in section 2, line 1, page 1, "Auditor of Public Accounts" and insert in lieu therefor the words "Commissioner of Finance"

Said amendment was agreed to.

Mr. Fallis moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
J. Everett Bach
G. M. Ballard
Robert E. Barry
Wm. T. Beard
Alvis S. Bennett
Douglas T. Bolling
J. F. Bosworth
W. S. Brim
C. J. Bronston
Randolph A. Brown
Haynes Carman
S. B. Chrisman
John Coulter
John H. Cox
Pink G. Curd
F. E. Daugherty
Louis B. Dugan
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Cecil Florence
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
Stanley C. Moebus
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter

H. O. Porter	Bruce Sloan	J. Wood Vance
Kleber F. Price	Otto Smither	Walter R. Vansant
Hobart Rayburn	G. C. Springate	S. J. Wagner
Thomas Rigdon	Ray J. Stengel	Porter Wallace
W. H. Riley	Henry Stewart	Harry F. Walters
Jack Savage	W. St. Clair Stuart	Henry Ward
Carl Scheben	T. M. Swope	H. L. Waterfield
Ray O. Shehan	Otis C. Thomas	
Faust Y. Simpson	Erna E. Tyra	—82

Resolved that the title thereof be as aforesaid.

Mr. Fallis moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 248. An Act relating to revenue and taxation, and to tax the gross amount of bank night awards.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*—(a) "Bank night awards" shall mean and include any gift, prize, or award of cash which is given by lot, drawing or other method by places of amusement and/or entertainment or persons operating the same.

(b) "Places of amusement" when used in this Act shall mean places of amusement and/or entertainment as defined in section 1, chapter 34, of the Acts of the 1938 regular session of the General Assembly.

(c) "Person" shall mean and include individuals, firms, joint stock companies, syndicates and corporations.

(d) "Proprietor" shall mean and include any person or persons who owns, operates, or manages a place of amusement and/or entertainment.

(e) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

§ 2. An excise tax is hereby imposed on bank night awards at the rate of fifteen per cent (15%) of the gross amount of the award.

§ 3. This tax shall be paid by the person or persons receiving the bank night award and shall be collected by the proprietor of the place of amusement and/or entertainment.

§ 4. The proprietor of each place of amusement and/or entertainment subject to the provisions of this Act shall on or before the tenth (10) day of each month take return under oath to the Department of Revenue on such forms as it may prescribe, setting out the number of bank nights held, the gross amount of such bank night awards, the persons receiving the awards and such additional information as the Department may require and shall accompany such return with a remittance for the amount of the tax collected under the provisions of this Act.

§ 5. The administration of this Act is hereby vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

§ 6. The Department shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the proprietor until said tax is paid.

§ 7. Any person required by this Act to report and pay the tax due to the Department of Revenue on or before the date required and who fails to so report and pay the tax

shall be required to pay, as part of the tax due hereunder, a penalty of ten per cent (10%) of the amount of the tax.

The permit issued under section 4281f-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, of any person who shall fail to comply with the provisions of this Act shall be subject to suspension or revocation in the discretion of the Department after hearing of which at least five (5) days notice has been given such person. Any person aggrieved by any assessment, order or ruling of the Department of Revenue under the provisions of this Act may appeal therefrom as provided in sections 5 and 5-a of chapter 4 of the First Extraordinary Session of the 1938 General Assembly.

Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty ($50.00) dollars nor more than five hundred ($500) dollars.

Mr. Curd offered the following amendment to said bill, viz.:

Amend H. B. 248 by striking out the word "take" in line 3, section 4, page 2, after the word "month" and inserting in lieu thereof the word "make"

Said amendment was agreed to.

Mr. Curd moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Wayne Freeman	Carl D. Perkins
J. Everett Bach	Eugene Gough	H. O. Porter
H. T. Baker	Van Y. Greene	Kleber F. Price
G. M. Ballard	Ralph C. Hamilton	Thomas Rigdon
Robert E. Barry	C. L. Hammons	W. H. Riley
Sterling B. Blake	T. H. Hickey	Joe E. Robinson
Douglas T. Bolling	Clyde S. Howard	Carl Scheben
J. F. Bosworth	Chester Huffines	Leon J. Shaikun
W. S. Brim	John M. Hunnicutt	Ray O. Shehan
Gus A. Brooks	W. H. Hunt	Faust Y. Simpson
Randolph A. Brown	R. L. Jackson	E. T. Sparks
Haynes Carman	J. B. Jarboe, Jr.	G. C. Springate
James W. Chapman	Chas. X. Jones	Ray J. Stengel
S. B. Chrisman	John S. Juett	Henry Stewart
John Coulter	William K. King	W. St. Clair Stuart
John H. Cox	W. A. Lamkin, Jr.	T. M. Swope
Pink G. Curd	Robert E. Lee	Otis C. Thomas
F. E. Daugherty	Harvey D. Leonard	Erna E. Tyra
Stanley S. Dickson	Edward Leslie	J. Wood Vance
Louis B. Dugan	W. Paul Lyon	Walter R. Vansant
Forest C. Easley	C. C. May	S. J. Wagner
D. E. Edwards	Frank C. McElwain	Porter Wallace
Harry W. Ennis	E. Hayes McMakin	Harry F. Walters
R. R. Ernst	Norris McPherson	Henry Ward
Carlos Fallis	Davis Moore	H. L. Waterfield
T. P. Fitzpatrick	J. Lee Moore	
Cecil Florence	C. Homer Neikirk	—79

There voted in the negative—

Alvis S. Bennett —1

Mr. J. Lee Moore offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 248 by inserting at the end thereof the words "This Act shall be known as the Pink Curd Act."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Curd moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 215. AN ACT authorizing independent school districts to annex county subdistricts or parts thereof, or county districts to annex parts of independent districts, and providing for the repeal of Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes Carroll's 1939 Supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any independent school district may annex and unite as a part of the independent school district any county subdistrict, subdistricts, or parts of subdistricts lying adjacent to the independent school district, or any county district may annex a part of an independent district either lying within,

partly within, or adjacent to the county district, subject to the following provisions:

When a part of the county district is to be annexed to an independent district, the board of education of the independent school district shall secure the approval of the county board of education and of the Superintendent of Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the independent school district to that of the average per census pupil wealth of the county school district as a whole and the effect of the proposed territorial loss of the county district on the educational program of such county school district.

If and when such approval has been secured in writing, the board of education of the independent school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such independent school district. If said proposal shall be adopted by a majority vote of the legal voters resident within the territory to be added to the independent district, such territory shall become a part of the independent school district.

When a part of the independent district is to be annexed to the county district, the board of education of the county school district shall secure the approval of the board of education of the independent school district and of the Superintendent of Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the county school district, to that of the average per census pupil wealth of the independent school district and the effect of the proposed territorial loss of the independent school district on the educational program of said independent school district.

If and when such approval has been secured in writing,

the board of education of the county school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such county school district. If said proposal shall be adopted by a majority of the legal voters resident within the territory to be added to the county school district, such territory shall become a part of the county school district.

Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes, Carroll's 1939 Supplement, is hereby repealed.

Mr. Juett moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Thomas moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon, the following bills and resolutions were introduced, viz.:

By Mr. Brim.

H. B. 377. An Act relating to Embalmers and Funeral Directors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

A new section of the statutes is created to be numbered 1599a-10a and to read as follows:

Any person who has been licensed as a funeral director or embalmer in this state and who has retired from active practice for not more than ten years shall, upon filing satisfactory proof with the Board that he has not engaged in the practice of embalming or funeral directing in this state during the period his license was not in force, and upon payment of a renewal fee of twenty-five dollars, be entitled to have his original license renewed without examination.

By Mr. Lyon.

H. B. 378. AN ACT to provide for the creation of divisions in county school districts and to provide for election of members of the county boards of education from divisions; amending sections 4399-25, 4399-26 and 4399-27 of Carroll's Kentucky Statutes, 1936 edition, and creating a new section.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the statutes is created to read and be numbered as follows:

4399-24a. (1) The board of education of each county school district in the state shall as soon as practicable but not later than July 1, 1940, divide their respective county school district into five divisions as nearly equal in population and containing integral voting precincts in so far as is practicable. When it is made necessary by changes in precinct boundaries shifts in population, or the creation, of independent school districts, the board of education may alter the boundaries of divisions in order to equalize the popula-

tion of divisions or make them conform to precincts, but no change shall be made in the boundaries of a division within six months prior to the day in which a member of the school board is to be elected from the division. A record of boundaries made for the division shall be kept in the office of the county board of education.

(2) Any citizen in the district may prosecute an appeal from the action of the board in forming the division to the county court and from the county court to the circuit court of the county in which the district is located. The procedure on appeals shall be the same as in other civil cases.

§ 2. Section 4399-25 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4399-25. (1) All elections for members of boards of education shall be by secret ballot. The ballot shall be on a separate sheet from all other ballots used in any election. The county clerk shall cause to be printed on the ballot the names of candidates in whose behalf he is petitioned to do so in writing, by not less than fifty legal voters of the county school district division or independent school district as the case may be; provided that in independent school districts embracing cities of the first and second class the number of such petitioners shall not be less than one hundred. The petitions must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons, and shall show the place of residence of each person signing it. In county school district divisions no person shall sign more than one petition, and in independent school districts not more petitions than the number of offices to be filled:

(2) The ballot shall be in the form prescribed for ballots by the general election law, except that no party emblems or other emblem or distinguishing mark shall be placed upon the ballot, save the words "School Ballot" at the head

thereof; and that the names of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed for each division. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots; and such ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected from the district or division as the case may be.

(3) In county school districts, the names of the candidates from each division shall be placed on the school ballot in such manner as to designate the division from which each candidate was nominated, and the ballot shall contain appropriate directions to the voters to vote for one candidate from each division.

(4) The general election laws shall apply to all school elections. The sheriff of each county in which a school district is situated shall provide for each precinct in the district a separate box for the reception of ballots used in the election of members of the board of education. The judge of election of the opposite political party to the clerk of election in each precinct shall issue the school ballots in the same manner as other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub and his registered number, in districts where registration is required by law, upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue of deposit of ballots as may be prescribed for elections generally.

(5) An election officer or other person within the elec-

tion booth telling or indicating to a voter the political affiliation of any candidate shall be punished by fine not exceeding two hundred dollars.

(6) The expense of the election shall be paid by the fiscal court out of the general funds of the county in all school districts except those embracing cities of the first five classes; in such case, the expense of the election shall be paid by the city from its general funds.

§ 3. Section 4399-26 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4399-26. (1) In independent school districts each voter may vote for as many candidates as there are members to be elected by making a cross in the square opposite the name of each candidate for whom he wishes to vote, and the ballot shall show the number of board members to be elected. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

(2) In county school districts each voter shall vote for one candidate from each division. The candidate from each division receiving the highest number of votes in that division shall be declared elected.

§ 4. Section 4399-27 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) All elections for membership on boards of education shall be in even numbered years for a term of four years. In independent districts in which three members were elected at the regular November election in 1936 and in which two members were elected at the regular November election in 1938, three board members shall be elected at the regular November election in 1940 and two at the regular November election in 1942. In independent districts in which two members were elected at the regular November election in 1936, and in which three members were elected at the regular

November election in 1938, two members shall be elected at the regular November election in 1940 and three at the regular November election in 1942. In those independent districts in which three members were elected at the regular November election in 1937 and in which two members were elected at the regular November election in 1938, there shall be three members elected at the regular November election in 1940, and two members at the regular November election in 1942.

(2) In all county school districts those members of the board of education elected in 1938 for a term of four years shall hold office only until the first day of January, 1941.

(3) In all county school districts there shall be five members of the board of education elected at the regular November election in 1940. The members so elected shall draw lots to determine which three shall serve for four years and which two shall serve for two years.

(4) At each regular November election in even numbered years there shall be held an election in every county and independent district to fill the membership of boards of education for the terms which will expire on the first Monday in January following, and the regularly elected members shall hold office for four years and until their successors are duly elected and qualified.

(5) An independent school district embracing a city of the fifth class, may, at the discretion of its board of education, hold its election of board members at its public school building on the first Saturday in May, the election to be held by three officers appointed by said board of education and the expenses of such district election to be paid from the treasury of such school district, and in all respect the provisions of this Act relating to holding elections for board members shall apply.

By Mr. Bolling.

H. B. 379. AN ACT to repeal, amend and re-enact Section One (1) of Chapter thirty-six (36) of the Acts of the General Assembly of 1938, now Section 2739g-34a of Carroll's Kentucky Statutes, Baldwin's Supplement of April 1939 to Carroll's 1936 Edition of Kentucky Statutes Baldwin's Revision, relating to an act fixing the punishment for drivers of motor or other vehicles while in an intoxicated condition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section one (1) of Chapter thirty-six (36) of the Acts of the General Assembly of 1938, now Section 2739g-34a of Carroll's Kentucky Statutes, Baldwin's Supplement of April 1939, to Carroll's 1936 Edition of Kentucky Statutes Baldwin's Revision, be and the same is hereby repealed, amended and re-enacted, so that the same when so amended and re-enacted shall read as follows:

It shall be unlawful for any person to operate a motor vehicle or any other kind of vehicle upon any of the public highways of this Commonwealth while under the influence of intoxicants or while in an intoxicated condition; and for each violation of the above provision the person so offending shall be fined for the first offense, not less than One Hundred ($100.00) Dollars nor more than one Thousand ($1,000.00) Dollars, and for the second and each subsequent offense he shall be fined not less than One Hundred Dollars nor more than One Thousand ($1,000.00) Dollars, and imprisoned not less than Thirty (30) Days nor more than six (6) months.

By Mr. Daugherty.

H. B. 380. An Act relating to examining trials held by magistrates; repealing, amending and re-enacting section 32

of the Kentucky Criminal Code of Practice, Carroll's 1938 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 32 of the Criminal Code of Practice of Kentucky, Carroll's 1938 edition, be repealed, amended and re-enacted, so that when amended and re-enacted said section shall read as follows:

Examination of Witnesses to Ascertain Person Guilty of Crime. A magistrate, if satisfied that a felony has been committed, shall have power to summon before him any person he may think proper for examination on oath concerning it, to enable him to ascertain the offender and to issue a warrant for his arrest. A magistrate, if satisfied that any public offense has been committed, shall have power to summon before him any person he may think proper for examination on oath concerning it, to enable him to ascertain the offender, and to issue a warrant for his arrest; provided, that a magistrate who conducts an examination under this section shall not thereafter preside at any trial, examining or otherwise, of any persons arrested as the result of said examination; and further that any magistrate conducting an examination under this section shall first inform each witness that he is entitled to an attorney to represent him and advise him of his rights before testifying at said examination and give said witness a chance to secure an attorney.

§ 2. Any magistrate violating the terms of this section and failing to inform any witness of his rights shall be subject to a fine of not less than $100.00 nor more than $500.00.

By Mr. Swope.

H. B. 381. An Act imposing taxes on establishments wherein bets or wagers are made or placed on horse races.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. As used in this Act:

(1) "Handbook" means any establishment for the purpose of taking or placing wagers or bets on horse races.

(2) "Department" means Department of Revenue.

§ 2. (1) On or before June 30 of each year any person who sets up, maintains, or operates a handbook during the following year from July 1 to the next June 30 shall pay to the Department of Revenue a tax of five hundred dollars.

(2) Any person may at any time after June 30 of one year and before June 30 of the next year obtain a tax receipt for the remainder of the license period upon payment of as many twelfths of the annual tax as there are unexpired months before the next July, if he has not operated a handbook since the preceding June 30 without paying tax for that period.

§ 3. Upon receipt of the tax money and a statement on a form furnished by the Department, giving the handbook operator's name and address, and the location of the handbook establishment the Department shall issue a receipt for the tax. The receipt shall show the period covered by the tax and such other matters as the Department deems necessary.

§ 4. Tax receipts shall not be transferred from one operator to another, but the operator may, with the consent of the Commissioner of the Department, have the tax receipt changed to cover a different location of the establishment, without additional cost to the operator.

§ 5. The Department may make necessary rules and regulations for the enforcement of this Act and the collection of the tax imposed by this Act.

§ 6. No taxes shall be refunded on the ground that the person paying the tax did not operate a handbook during the whole or any part of the period covered by the tax paid.

§ 7. One-half of the taxes collected under this Act shall be paid into the State Treasury and credited to the General Fund. One-half of the taxes shall be paid into the county treasury of the county in which the handbook on which the tax is paid is operated.

§ 8. No evidence concerning any transaction arising out of the payment of the tax imposed by this Act and no record made by a public official or employe in the performance of duties in carrying out this Act shall be introduced in any court except in a proceeding to collect the tax or in a prosecution for violation of this Act.

§ 9. This Act does not authorize any person to violate the gaming laws or Constitution of this state, and the payment of the tax shall be no defense to a prosecution for the violation of the gaming laws.

§ 10. (1) The penalty for setting up, maintaining, or operating a handbook without paying the tax imposed by this Act shall be a fine of two thousand dollars and imprisonment for thirty days.

(2) The penalty for any other violation of this Act shall be a fine not exceeding one thousand dollars or thirty days imprisonment or both.

(3) In prosecutions for violations of this Act and in actions to collect the tax it shall not be incumbent upon the Commonwealth to prove that the race upon which the bet or wager is made was actually run or that any establishment was set up for the purpose of receiving, taking or placing bets or wagers. Proof that the bet or wager was made upon what purported to be a race shall be sufficient to establish a prima facie case for the Commonwealth.

(4) One-half of the fines collected for violation of this Act shall be paid to the officer making the arrest.

(5) The penalties imposed by this section are in addition to any penalties imposed for violation of the gaming laws.

By Mr. Swope.

H. B. 382. An Act relating to revenue and taxation, and taxing the operation of certain coin-operated machines.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definition of slot-machine.* As used in this Act, unless the context requires otherwise, "slot-machine" means any machine, device or facility the operation of which depends upon the insertion into its mechanism of a coin, token or other thing of value, at which money or other thing of value may be won or lost, or which vends coins, merchandise, tokens or other thing of value and an element of chance is involved. This includes machines which may pay a reward for skillful operation, or on which a reward may be given based on a score or combinations, whether the machine pays the reward or indicates the reward to be paid.

§ 2. *Tax must be paid.* On or before the last day of each month every owner of a slot-machine shall pay the tax imposed by section 4 of this Act to the county court clerk for each slot-machine owned by him he allows to be operated in the county during the following month. The owner may, if he desires, pay the tax for more than one month in advance at the rate provided in section 4 of this Act, but no taxes shall be refunded if the machine is not operated.

§ 3. *Issuance of receipt.* Upon payment of the tax the county court clerk shall issue a receipt, furnished by the

Department of Revenue, showing that the tax has been paid, the period which the tax covers, and such other matter as the Department of Revenue deems necessary. The receipt shall be attached to and prominently display on the slot-machine on which the tax is paid. The tax receipt shall not be transferred from one machine to another, but may be transferred with the machine from one owner to another.

§ 4. *Amount of tax.* The tax on slot-machines shall be based upon the highest total value of coins, tokens, or other things which can be inserted in the machine before each operation. The tax each month on each machine shall be, if the highest total value which can be inserted is:

4c or less	$ 15.00
5c to 9c	25.00
10c to 24c	35.00
25c to 49c	50.00
50c to 99c	75.00
$1.00 or over	100.00

§ 5. *Records.* The clerk shall keep a record of the names and addresses of persons to whom tax receipts are issued, the number issued to each person and such other information as the Department of Revenue requires, and shall forward a copy of the same to the Department of Revenue.

§ 6. *Clerk's fee; how tax distributed.* The clerk shall retain as his fee, from the tax collected by him, one dollar for each tax receipt he issues under this Act. He shall pay one-half of the remaining tax money into the county treasury, and the other half into the State Treasury to be credited to the General Expenditure Fund.

§ 7. *Rules for enforcement and collection.* The Commissioner of the Department of Revenue may make rules for the enforcement of this Act and for the collection of the tax imposed by this Act.

§ 8. *Evidence of payment of tax not admissible.* No evidence concerning any transaction arising out of the payment of the tax imposed by this Act and no record made by a public official or employe in the performance of duties in carrying out this Act shall be introduced in any court except in a proceeding to collect the tax or in a prosecution for violation of this Act.

§ 9. *Nature and construction of Act.* (1) The tax provided for by this Act is a tax on the operation of slot-machines, but this Act does not authorize any person to violate the gaming laws or Constitution of this state, and the payment of the tax shall be no defense to a prosecution for the violation of the gaming laws.

(2) The tax imposed by this Act on slot-machines, as defined in section 1 of this Act, is in lieu of all other taxes imposed by statute on the operation of such machines.

§ 10. *Penalties.* (1) Any person who knowingly allows a slot machine on which the tax has not been paid to be operated on premises under his control, or any owner of a slot-machine who allows it to be operated without paying the tax as herein imposed, or any other person violating this Act shall be fined not less than one thousand nor more than two thousand dollars. The unlawful operation of each slot-machine at any time during each separate month constitutes a separate offense.

(2) One-half of the fines collected for violation of this Act shall be paid to the officer making the arrest.

(3) The penalties imposed by this section are in addition to any penalties imposed for violation of the gaming laws.

By Mr. Wagner.

H. B. 383. AN ACT repealing, amending and re-enacting Section 2054-A-14 of Carroll's Kentucky Statutes, 1936

Baldwin's Edition, relating to drinking water used by school children providing enclosures for all public water supplies and fixing penalties for failure to comply with the provisions of this act. And designating the State Department of Education and State Board of Health to adopt such devises as may be required to fulfill the purpose of this act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That chapter 65 Acts of 1918, page 290, and now Section 2054-A-14 of the 1936 Edition Carroll's Kentucky Statutes be amended and re-enacted so that when so re-enacted it will read as follows to-wit:

§ 1. The county health officer of each county shall make a physical, chemical and bacterialogical examination of the drinking water used by the public schools of this commonwealth twice within each school term and if found dangerous to their health the state or county board of health may order a fresh supply of pure water to be furnished at the expense of the county or city board of education.

§ 2. In addition to such examination, if the water supply be a spring, cistern, dug, drilled, or cased well shall be securely covered and sealed with such suitable covering as the type of spring, cistern, or well necessitates, and each covering shall be provided with a lock that will insure the protection of the water supply of all public places and such enclosures shall be securely locked when unattended so as to protect the water supply from dirt, leaves, insects and reptiles and other foreign debris and matter.

§ 3. Said enclosing devises shall be so constructed as to provide for the enclosing of the well-chain and bucket inside the well while not in use as an added precaution against poison or contamination of said bucket or chain.

§ 4. The type of covering devise to be used by the public schools of this commonwealth shall be prescribed and approved by the State Department of Education and subject to the approval of the State Board of Health.

§ 5. Any county in this commonwealth which does not have a regular county health department or health officer, the County Board of Education shall be empowered to designate such person or persons to fulfill the provisions of this act. Such person or persons designated by the county board of education must be approved by the State Board of Health.

§ 6. It shall be the duty of the county health officer or person designated by the Board of Education after having made their inspection and examination or public drinking springs, cisterns, dug, drilled, or cased wells from which schools get their water supply to report to the County Attorney the failure of any person or persons failing to comply with the provisions of this act.

§ 7. Any person or persons, firm, corporation or governing authorities of any institution not complying with the provisions of this act shall be subject to a fine not less than ten ($10) dollars, nor more than one hundred ($100) dollars, or confined in jail not less than ten (10) days, nor more than thirty (30) days, or both fine and imprisonment.

§ 8. All laws and parts of laws in conflict herewith are hereby repealed.

By Mr. Vance.

H. B. 384. An Act relating to the taking of depositions and amending sections 567 and 571 of the Civil Code of Practice, 1938 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 567 of the Civil Code of Practice is amended to read as follows:

567. *What is reasonable notice.* A notice is reasonable that allows one day for each three hundred miles which the party will have to travel and one day for preparation if the distance is less than three hundred miles, and three days if it is more. If the distance exceeds three hundred miles and the usual mode of travel for the whole or a part of the distance is by common carrier, notice which allows the time ordinarily required by such mode of travel, with the days given for preparation, is sufficient. If the distance be less than one hundred miles, a notice which gives to the party a reasonable opportunity to be present shall be sufficient.

§ 2. Section 571 of the Civil Code of Practice is amended to read as follows:

571. *When depositions on interrogatories may be required.* If more than six days' notice to take depositions is required by section 567 of the Civil Code, the party to whom the notice is given may by notice to the adverse party or his attorney, served on the day when the first notice is given, or on the following day, require the deposition to be taken upon interrogatories.

§ 3. WHEREAS, this Act will relieve the hardships in taking depositions that now exist an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor

By Mr. Vance.

H. B. 385. An Act relating to jurors and amending section 2253 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2253 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

2253. *Qualifications; exception to juror; persons exempt; in inferior courts.* (1) No person shall be a competent juryman in any court unless he is a citizen at least twenty-one years of age, a housekeeper, sober, temperate, discreet, and of good demeanor. The fact that a person not competent served on a jury shall not be cause for setting the verdict aside, nor shall exceptions be taken to any juror for such cause after the jury has been sworn.

(2) No civil officer except notaries public and trustees of schools, no transient person, physician, surgeon, practicing attorney, or minister of any religious society, cashier or teller of a bank, or those who may be supplying their places for a time, or attending at an asylum, or retail druggist, pharmaceutist, undertaker, depot agent of a railroad or telegraph operator in employment, or any person more than sixty years of age shall be compelled to serve on a petit jury.

(3) No person shall serve as a juror in a court inferior to the circuit court more than one day in any one calendar month, and the judge in such courts shall discharge any juror summoned when the juror has served as such during the calendar month. If any person serves as a juror in such inferior court, more than one day in any calendar month, the trial judge shall fine him not less than two dollars nor more than ten dollars for contempt of court.

By Mr. Moore.

H. B. 386. An Act to repeal, amend and re-enact section 4618-130, Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 4618-130, Carroll's Kentucky Statutes 1936

Edition, is hereby repealed, amended, and re-enacted so that when re-enacted it shall read as follows:

4618-130. *Library extension division.*—The library extension division shall be headed by an assistant librarian and shall act under the direction of the State Librarian. This division shall be vested with all the functions heretofore performed by the Kentucky Library Commission and its officers. The assistant librarian, who shall have charge of this division, shall have had the same training as the Librarian and shall have had two years of library experience.

The library extension division may enter into contracts with library boards, State Institutions of Higher Learning, and any local or State governmental agencies or authorities for the purpose of enabling the establishment and/or maintenance of a local public library service upon such terms as may be agreed upon by the several contracting parties.

The contracting parties may establish such districts or units of library service as they may mutually agree upon. The library service within such districts shall be carried on according to plans approved by the Director of Library Extension.

All libraries established under this Act shall send such statistics and furnish such information regarding their activities as the Director of the Division of Library Extension may require from time to time.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict.

By Mr. Moore.

H. B. 387. AN ACT authorizing the Library Extension Division of the Department of Library and Archives to receive, accept, and administer funds allocated to it by the United States Government, the State of Kentucky and other

agencies, and to amend Section 4618-130 of the Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4618-130 of the Kentucky Statutes be amended by adding thereto the following, so that when amended such section will read as follows:

The Library Extension Division shall be headed by an assistant librarian and shall act under the direction of the State Librarian. This division shall be vested with all the functions heretofore performed by the Kentucky Library Commission and its officers. The assistant librarian, who shall have charge of this division, shall have the same training as the Librarian and shall have had two years of library experience.

The Library Extension Division, in addition to the powers now vested in it by law, is hereby authorized and empowered to receive, accept and administer any money or moneys appropriated or granted to it, separate and apart from the general fund, for providing and equalizing public library service in Kentucky:

1. By Federal Government

2. By the State of Kentucky and any other agencies, private and otherwise.

§ 2. The State Treasurer shall serve as trustee of funds apportioned to the State of Kentucky from any appropriations made by the Federal Government, the State government or any other agency, for providing and equalizing public library service in Kentucky.

§ 3. The Library Extension Division is hereby designated, authorized and required to cooperate, as provided in and required by the Acts of Congress, providing Federal

grants to states for library service, with the United States Commissioner of Education in the administration of the provisions of said Acts, employ personnel and do all things necessary to entitle the State to receive the benefits thereof.

§ 4. The Library Extension Division shall make requisition on the State Treasurer for disbursement from funds to such libraries, cities, towns, and counties for library services as have been approved and authorized to participate in the benefit of these funds under the terms of the Federal Acts. And it shall make requisition on the State Treasurer for disbursement from Federal funds for the payment of salaries and other expenses as are authorized herein out of the fund provided by the Federal Government.

§ 5. All libraries, cities, towns, counties and school districts participating in or benefiting by the provisions of the Federal grant for library service are hereby required to make such reports and audits as are required to the State Treasurer, the Library Extension Division, and the United States Commissioner of Education. And the State Treasurer and Library Extension Division are authorized and required to make such reports and audits as may be required by the Federal Government and the United States Commissioner of Education in respect to the expenditure of Federal grants and progress of library service.

§ 6. All appointments of personnel, and the tenure thereof to the Library Extension Division and to such libraries, cities, towns, counties and school districts participating in or benefiting by the provisions of the Federal grants for library service shall be based on merit and efficiency without regard to political consideration.

§ 7. The Library Extension Division shall, as soon as possible after the passage of this act, make and administer plans to lessen inequalities of opportunity for library service; for the maintenance of a cooperative and integrated system

of library service throughout the State; for suitable co-operative arrangements with school systems; cooperative agricultural extension service and other appropriate agencies; and to make equitable apportionment of any funds so received so as to provide library facilities to both the white and colored races.

§ 8. The Library Extension Division shall, as soon as possible after the passage of this Act, transmit to the United States Commissioner of Education official notice of acceptance of the provisions of the aforesaid Acts of Congress and legislative enactment pertaining to the matters specified herein.

§ 9. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of said Act, and shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered.

By Mr. Florence.

H. B. 388. AN ACT regulating the sale of oleomargarine within the Commonwealth of Kentucky, regulating the labeling of packages and fixing a penalty for violation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That no person shall sell, or offer for sale within the Commonwealth of Kentucky any oleomargarine or substitute butter compound which is manufactured in whole or in part from any ingredient not produced within the continental confines of the United States of America.

Any oleomargarine or butter substitute sold within this

State must be packaged, and the package must contain the following statement:

"All of the ingredients of this product have been produced and manufactured within the United States of America."

Any merchant or manufacturer violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00).

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Brown.

H. B. 389. AN ACT to authorize the establishment of sanitary districts in counties containing cities of the first, second and third classes and the powers of the county and state board of health with reference thereto and providing that such districts may include areas of other counties near to or adjoining such counties containing first, second and third class cities; providing for the powers of the district; creating the office of commissioner of sanitary districts and providing for his powers and duties; providing procedure and conditions under which the district and its boundaries may be established, defining certain terms used in the act; providing for the appointment, powers, duties and compensation of the governing body, officers and employees of such districts; providing for the plans of the improvements of the district and the supervision of the state board of health with reference thereto and the approval of the qualifications of the engineer; authorizing the district to acquire and own lands and personal property and interest and uses therein in this state and elsewhere including existing sanitary works; authorizing district to condemn property and providing procedure; authorizing governing body of district to fix rates and rentals and to contract and to make rules and regula-

tions for the management, protection of improvements, and government of the district and providing supervision of such rules and regulations by the state board of health; restricting and prohibiting installation of other sanitary works within the district and enforcing the use of the district's works; affording injunctive relief; authorizing district to contract with individuals and others and with the governments of the United States and of other adjoining states and their political subdivisions, arms and branches; providing for financing of the organization, construction, maintenance and operation of the district and all improvements and property belonging to the district; authorizing the levy of a tax, the issuance of original bonds, refunding and deficiency bonds, the borrowing of money, interest yield, collection of revenues, securities for bonds and funds borrowed; the creation of statutory mortgage liens to secure bonds and the enforcement of such liens; avoidance of constitutional restrictions against indebtedness of the district; and the management and investment of all funds belonging to the district; exempting the bonds issued by the district from taxation; providing for the rights of creditors of such district and enforcement of their claims; requiring all users of the services of the district to pay therefor including municipalities, school districts and all public and private organizations and political subdivisions; fixing liability of municipalities upon annexation of portion of district and relief to users and procedure therefor; providing for the extension, addition or improvement of the works of the district and the issuance of bonds therefor and providing the security for such bonds; providing penalties for interference and violation of this act and the rules and regulations promulgated thereunder, and requiring liberal construction of this act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. (a) This Act may be known and cited as the "Sanitary District Act of Kentucky"; the bonds which are authorized to be issued hereunder may be briefly called "Sanitary District Bonds", and shall be so engraved or printed on their face following the name of the issuing district; the districts created hereunder shall be briefly termed, "Sanitary Districts", and the records of the districts provided for hereunder shall be termed, "Sanitary District Records", and such title shall be printed, stamped or written thereon.

(b) Wherever the terms, "Sanitary Works", "Improvements", "Sanitary System" or "Sanitary Sewers" are used in this Act, they shall be taken to mean any works constructed by a sanitary district in accordance with the purposes of this Act, as set forth in Section 3 hereof.

(c) Wherever the term "Person" is used in this Act, and not otherwise specified, it shall be taken to mean, person, firm, copartnership, association or corporation other than public corporations as hereinafter defined.

(d) Wherever the term "Public Corporation" is used in this Act, it shall be taken to mean counties, cities, school districts, water districts, drainage districts, and other governmental agencies or political subdivisions clothed with the power of levying general or special taxes or issuing bonds payable from special funds.

(e) Wherever the terms "Land" or "Property" are used in this Act, they shall, unless otherwise specified, be held to mean real property.

(f) Wherever the terms, "Board of Directors" or "Directors" are used in this Act, said term or terms shall be held to mean the governing body of a sanitary district.

(g) Wherever the terms, "Sanitary Commissioner" or "Commissioner", are used in this Act, they shall be held to

mean the commissioner of sanitary districts, as provided for in Section 2 of this Act.

§ 2. The director of the bureau of sanitary engineering of the State Board of Health is in addition to his other duties hereby made commissioner of sanitary districts and is hereby vested with jurisdiction, power and authority, when such conditions as set forth in this act and certified to by the County Board of Health are found to exist, to establish sanitary districts within any county or counties containing first, second or third class cities in accordance with the provisions hereinafter set forth.

§ 3. Such sanitary districts may be established for any of the following purposes:

(a) To prevent and correct the pollution of streams;

(b) To regulate the flow of streams for sanitary purposes;

(c) To clean and improve stream channels for sanitary purposes;

(d) To provide for the collection and disposal of sewage and other liquid wastes produced within the district; and incident to such purposes and to enable their accomplishment, to construct with all appurtenances thereto, laterals, trunk sewers, intercepting sewers, siphons, pumping stations, treatment and disposal works; to maintain, operate and repair same, and do all other things necessary for the fulfillment of the purposes of this act.

§ 4. Before the commissioner of sanitary districts shall establish a sanitary district, as provided in this act, a petition, approved as to propriety and necessity by the County Board of Health of each county affected, shall be filed with the commissioner, signed by a majority of those in possession claiming as freeholders within the limits of the territory proposed to be organized into a sanitary district.

In determining when a majority of land owners have

signed the petition, the commissioner shall be bound by the names as they appear upon the county tax duplicate, which for all purposes of this act, shall be prima facie evidence of such ownership. The commissioner shall further require evidence to determine the fact that all signatures on the petition are genuine, and a notification by ordinary mail sent to the respective addresses shown on the petition shall be deemed satisfactory by the commissioner if the petitioner so notified fails to report in writing within ten days that he did not sign the petition. When authorized by ordinance, such a petition may be signed by the governing body of any municipality lying wholly or partly within the proposed district, and when so signed by such governing body such a petition on the part of said governing body shall fill all requirements of representation upon such petition of the freeholders of such municipality as they appear upon the assessment roll of such municipality; and individuals within said municipality shall not sign such a petition. Such a petition may also be filed by any municipality interested in some degree in the improvement, upon proper action by its governing body, except as provided in Section 48.

§ 5. The petition shall set forth:

First: The proposed name of said district, which shall be "Sanitary District No. ..... of ..... County (or counties), Kentucky."

Second: The necessity for the proposed work and that it will be conducive to the public health, safety, comfort, convenience or welfare.

Third: A general description of the purpose of the contemplated improvement, and of the territory to be included in the proposed district. Said description need not be given by metes and bounds or by legal sub-division, but it shall be sufficient if a reasonably accurate description is given of the territory to be organized as a district. Said territory may include one or more political subdivisions or portions thereof,

and, except as otherwise provided by this act, shall not be included wholly within the limits of a single municipality. Said territory need not be contiguous, provided it be so situated that the public health, safety, comfort, convenience and welfare will be promoted by the organization as a single district of the territory described.

Fourth: Said petition shall pray for the organization of the district.

§ 6. No petition with the requisite number of valid signatures shall be declared null and void on account of alleged defects, but the commissioner may at any time permit the petition to be amended in form and substance to conform to the facts, by correcting any errors, in the description of the territory, or in any other particular, but shall not add or deduct area except as provided in Section 8. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed shall be considered the same as though filed with the first petition placed on file.

§ 7. At the time of filing the petition, or at any time subsequent thereto and prior to the time of giving of notice by the commissioner, as hereinafter provided, either bond with security approved by the commissioner shall be filed with him by the petitioners, or cash or securities shall be deposited by petitioners for an amount sufficient to pay the costs in the proceedings thereafter involved. If the commissioner of sanitary districts at any time during the proceedings shall not be satisfied that the bond or deposit is sufficient or that the surety on the petitioners' bond is safe, he may require the execution of an additional bond or the giving of additional surety or an additional deposit within a time to be fixed not less than ten days thereafter, and upon the failure of the petitioners to execute the bond or guarantee, or to give additional security or to post the additional deposit, the commis-

sioner may refuse to proceed further and may refuse to organize the district.

§ 8. When the petition is filed with the commissioner, he shall investigate at once the boundary of the district proposed to be organized, and may, at the cost of petitioner, make or cause to be made such surveys as are necessary to establish reasonably accurately such a boundary as will, in the judgment of the commissioner, accomplish the purpose sought by the creation of such a district, in a practicable and workable manner which will be sufficiently comprehensive to avoid confusion or interferences with any other similar district then existing or which thereafter may be created. It is not necessary that the boundaries, when established by the commissioner, shall follow the boundaries proposed by the petitioners, but if the boundaries as established by the commissioner result in a material change from that proposed in the original petition, it shall be necessary for the petitioners to secure, in case of a larger or smaller area, sufficient signatures of freeholders or owners of property that will insure the approval of a majority of freeholders or owners in the area as established by the commissioner, by virtue of the change in the boundaries.

None of the provisions of this Act shall be applicable within the corporate boundaries of any municipality of the first class, nor shall it be binding upon such municipality, or any part thereof, or any land or property within the boundaries of such municipalities.

The governing body of any city of the first class shall determine by ordinance whether city property lying outside the corporate boundaries shall be included in any sanitary district, and whether the municipality shall bind itself to pay the charges for the services of the district furnished to such land or property.

Should it be found desirable to include in a sanitary district all, or a portion of an area of an incorporated munici-

pality of the second or third class, the governing body of such municipality shall determine by ordinance whether such municipality, or portion thereof, shall be included in the district, or whether the municipality shall bind itself to pay the charges for the services of the district furnished in such area.

§ 9. When a majority of those qualified within the boundary fixed by the commissioner are found to have petitioned for the establishment of a sanitary district and the commissioner shall have established the boundaries thereof, the commissioner shall give notice by publication of the application for the creation of such district. Such notice shall be posted in at least ten places in the area proposed to be organized into such districts, or shall be published in at least two consecutive, regular editions of a newspaper of general circulation in the proposed district.

§ 10. Any owner of real property in said proposed district, who individually may not have signed the original petition as submitted for the creation of said district, and who wishes to object to the organization and incorporation of said district shall, within sixty days after the giving of notice by the commissioner, file his or their petition in the circuit court of the county wherein the larger part of the proposed district is located, naming the commissioner defendant and setting out in the petition his objections to the organization and incorporation of such sanitary district. Process shall be served upon the commissioner and the commissioner shall answer at the time the defendant in an equity action is required to answer. The commissioner shall be represented in the Circuit Court by the County Attorney and in the Court of Appeals by the Attorney General, and he also may require his defense be made by the petitioners or some of them. Thereafter, the issues may be made up and the case may be docketed for hearing, as in an action for a declaration of rights, and an appeal may be taken and judgment shall

become final as provided for in such procedure. The burden of proof shall be upon the plaintiff to show cause why such district should not be organized. If the court renders judgment against the commissioner, such judgment shall point out such changes as may be required for the establishment of such a district, which, if met by the commissioner, shall authorize the creation of this district. If such changes are not met by the commissioner, the proposed district shall not be organized unless new proceedings, as hereinbefore outlined, are instituted for the creation of the sanitary district, but such new proceedings shall not be instituted for a period of six months after the date of judgment. If the court gives judgment against the plaintiff, the commissioner shall organize the district as herein provided. If an appeal is taken as herein authorized, such appeal shall suspend the judgment until the case has been passed upon by the Court of Appeals and final judgment rendered. Either the plaintiff or the commissioner may appeal from the judgment of the circuit court to the Court of Appeals, but the commissioner shall not be required to make any appeal bond. The pleading and practice in all suits provided for herein shall be the same as in other suits in equity.

§ 11. In the event no suit is filed against the commissioner, or in the event suit is filed and judgment is rendered in favor of the commissioner, or in the event an appeal is taken from the judgment to the Court of Appeals and final judgment is rendered in favor of the commissioner, the commissioner shall forthwith declare the district organized into a sanitary district and give it a corporate name, as provided in Section 5 of this Act, by which in all proceedings it shall thereafter be known. The commissioner shall certify his act to the county court clerk or clerks of the county or counties wherein all or any part of said district may be located, who shall record such certificate as articles of incorporation; and he shall so certify to the Secretary of State, who shall record

the certificate as articles of incorporation. The commissioner shall also certify to the county judge or judges of the county or counties wherein any part of said district is located. Thereupon, the district shall be a political subdivision and shall have perpetual existence except as otherwise specifically provided in Section 54 with power to sue and be sued, contract and be contracted with, incur debts, liabilities and obligations; to exercise the right of eminent domain and to assess, tax, and contract for rentals as herein provided, to issue bonds and to do and perform all acts herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created, and for executing the powers with which it is invested.

§ 12. In such certificate of the commissioner, he shall designate the place where the office or principal place of business of the district shall be located, which shall be within the corporate limits of the district if practicable, but may be changed by the board of directors of the district from time to time, by certifying such change to the county court and the notation by such court on its records of such location, and records of the district shall be kept at such place and shall be open to inspection as are the records of the fiscal court.

§ 13. Within twenty days after the commissioner certifies to the county clerk or clerks of the county or counties wherein said district is located that said district is incorporated, there shall be appointed a Board of Directors for said district consisting of three members whose duty it shall be to control and manage the affairs of said district. Said directors shall be appointed in the following manner; if the district lies wholly within a single county, the county judge of said county shall appoint all three members of the Board of Directors. If the district lies partly within two counties, the county judge of the county in which the major portion of the district lies shall appoint two members of said Board of Directors and the county judge of the other county shall

appoint the third member. If the district lies within more than two counties, the county judges of all of said counties shall jointly select the three members of the Board of Directors, but each member appointed must reside in a different county. Not less than two of the members of the Board of Directors shall be freeholders, and not more than two of said members shall belong to or be affiliated with the same political party. No member of said board of directors shall be in any way associated or connected with the ownership, operation or control of any privately owned public utility operating within the district. Said members of the first Board of Directors shall hold their offices respectively for two, three, and four years from the date of their appointment, and the length of the term of office of each member of the first Board of Directors shall be determined by lot at their first meeting. After the expiration of the respective terms of office of the first Board of Directors, each member of the Board of Directors shall be appointed for a term of four years; except that, vacancies resulting from any cause other than the expiration of a term of office shall be filled only for the unexpired term. The county judge of the county whose member has completed his term of office or whose office has otherwise been vacated for any cause shall fill the vacated office. Provided, that when the district lies within more than three counties, vacancies shall be filled in rotation by the county judges of those counties not represented by members of the Board of Directors at the time the vacancy occurs. The members of the Board of Directors must at all times be residents within the boundaries of said district, and the office of any director who moves his residence outside said district shall automatically be vacated.

§ 14. After the certificate is issued establishing the district, said district shall be deemed final and binding upon the real property within the district and shall finally and conclusively establish the regular organization of the said district against all persons except the Commonwealth of Ken-

tucky upon suit commenced by the Attorney General. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

§ 15. Each director before entering upon his official duties shall take and subscribe to an oath, before an officer duly authorized to administer oaths, that he will honestly, faithfully and impartially perform the duties of his office, and that he will not be interested directly or indirectly in any contract let for the purpose of carrying out any of the provisions of this Act; and said oath shall be filed with the clerk of said county court.

Each director shall give a good and sufficient bond to be approved by the county judge appointing him for the faithful and honest performance of his duties, and security for all moneys coming into his hands or under his control. The cost of the bonds shall be paid by the district.

§ 16. The board of directors shall, upon taking oath, choose one of their members as president of the board of directors and shall select some suitable person as secretary, who may or may not be a member of said board of directors. Such board of directors shall adopt a seal, and shall keep in a well bound book a record of all proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts, which shall be open to the inspection of all owners of property in the district as well as all other interested parties or persons.

The board of directors is hereby declared to be the governing body of such sanitary district, and shall exercise all the powers and manage and control all the affairs and property of such districts; and said board of directors shall have the right to elect a treasurer, to employ an attorney and a chief engineer for such district as hereinafter provided, who shall hold their respective offices during the pleasure of the board of directors, and who shall give such bond as may be

required by said board of directors. Said board of directors may prescribe the duties and fix the compensation of all the officers and employees of said district: provided, however, that a member of said board of directors, except the chairman, shall in no case receive a sum to exceed $10.00 per meeting and not to exceed $150.00 per annum, the chairman to receive $100.00 per annum in addition to his compensation as a director, nor shall the treasurer receive more than $900.00 and the secretary more than $300.00 per annum. Said board of directors shall have power to adopt all necessary rules and regulations for the proper management and conduct of the business of said board of directors and of said corporation, and for carrying into effect the other objects for which said sanitary district is formed. All such rules or regulations shall become effective only upon publication by posting in at least ten public places within the district.

§ 17. A majority of the directors shall constitute a quorum, and concurrence of the majority in any matter within their duties shall be sufficient for its determination. All actions taken by the directors shall be by resolution, and in each instance the name and vote of each director shall be recorded in the minutes.

§ 18. The secretary shall be the custodian of the minutes and the records of the districts and of its corporate seal and shall assist the board of directors in such particulars as it may direct in the performance of its duties. It shall be the duty of the secretary to attest, under the corporate seal of the district such records that may be required of him by the provisions of this Act, or by any persons ordering the same and he shall receive for such transcription, the same compensation allowed county clerks for copying records. Any portion of the record so certified and attested shall prima facie import verity. The secretary shall serve also as treasurer of the district, unless a treasurer is otherwise provided for by the board of directors.

§ 19. It shall be the duty of the treasurer, who may also be the secretary, to keep an accurate account of all moneys received or disbursed by the district; to make periodic accountings and report thereof as directed by the board of directors, to make regular semi-annual accountings; to assist any auditors employed by the board of directors to check the financial records of the district; to sign all checks or vouchers of the district as may be authorized, which checks or vouchers will not be valid until countersigned by the president of the board of directors; to deposit all funds received in any bank or banks as may be selected by the board of directors; and to perform all other functions as chief financial officer of the district as may be directed by the board of directors. The treasurer shall give a good and sufficient bond to the board of directors for the faithful and honest performance of his duties and security for all moneys coming into his hands or under his control. The cost of the bond shall be paid by the district.

§ 20. The engineer, employed by the board of directors, shall be a Registered Professional Engineer under the laws of the Commonwealth of Kentucky and may be an individual, copartnership or corporation but before any engineer may be employed, the qualifications of such engineer, or if more than one is employed, the qualifications of the chief engineer, must first be approved in writing by the state board of health. The board of directors may also employ such other engineers, attorneys and other agents and assistants as may be needful; and may provide for their compensation, and may maintain, furnish and equip an office or offices, and purchase such office supplies, equipment, apparatus, appliances, instruments and tools as are necessary, which, with all other necessary expenditures, shall be taken as a part of the cost of the improvement. The employment of the secretary, treasurer, engineer, attorney and other personnel for the district shall be evidenced on the minutes of the district with their

compensation and their term of employment will be at the pleasure of the board of directors.

§ 21. The chief engineer shall be superintendent of all the works and improvements, and shall make a full report to the board of directors each year, or oftener if required, and it shall be his duty to make such suggestions and recommendations to the board of directors as he may deem proper and to advise the board of directors concerning matters pertaining to engineering, design, construction and operation of the sanitary system and district. A copy of this report shall also be filed with the commissioner of sanitary districts.

§ 22. Upon their qualification, the board of directors shall prepare or cause to be prepared a plan for the improvements for which the district was created. Such plan shall include such maps, profiles, plans and other data and descriptions as may be necessary to set forth properly the location and character of the work with estimates of cost, and of the property benefited or taken or damaged.

In the preparation of the plan, the board of directors may recognize the necessity of future extensions and enlargements which may result from enlargements of the area of the district in order that the district improvements may be designed to meet properly such increased demands.

§ 23. In case the board of directors finds that any former survey made by any other district or in any other manner is useful for the purposes of the district, the board of directors may take over the data secured for such survey, or such other proceedings as may be useful to it, and if required, may pay therefor the reasonable value thereof, which shall not exceed the cost of obtaining such information independently.

§ 24. Upon the completion of such plan the board of directors shall submit it to the state board of health for approval. If the state board of health should refer back said

plan for amendment, the board of directors shall prepare and submit to the state board of health an amended plan. If the state board of health should reject such plan, the said board of directors shall proceed as in the first instance under Section 22, above, to prepare another plan. If the state board of health should approve said plan, a copy of the action of said board of health shall be filed with the secretary of the board of directors and by him incorporated into the records of the district.

§ 25. Upon the approval of the official plan by the state board of health the board of directors shall pass a resolution accepting the official plan as final and fixing all financing, taxes, and rentals as authorized by this act necessary for the construction, maintenance, and operation required to place such plan in effect. After final resolutions are passed fixing such rates and rentals, no alterations of the plan shall be made except as provided herein and as approved by the state board of health.

§ 26. After the establishment of the district and the organization of the board of directors, no public or private corporation, or person, or firm shall install within such districts laterals, trunk lines, interceptors for the collection or discharge of sewage or other liquid waste, treatment or disposal works, until the plans therefor have been submitted to and received approval of the board of directors of the district and of the state board of health. Any such installation contrary to the provisions of this section shall constitute a nuisance and shall be abated by injunction upon proper application by any one agrieved, including the district, the commissioner, the state board of health, or the county board of health.

§ 27. The board of directors shall have full power and authority to devise, prepare for, execute, maintain and operate any or all works or improvements necessary or desirable to complete, maintain, operate and protect the

works provided for by the official plan. They may secure and use men and equipment under the supervision of the chief engineer or other agents, or they may in their discretion let contracts for such works, either as a whole or in part.

§ 28. The powers of the board of directors shall be limited to the construction, maintenance and operation of such works as are necessary to carry out the purposes of the district in improvement of sanitation, as set forth in Section 3 of this Act, but shall not permit house and user's connections at the cost of the district; provided however that every connection shall be made under the supervision of the district. No house or user's connection shall be made unless and until such house or user is provided with an adequate water supply.

In order to effect the proper collection and disposal of sewage and other liquid wastes produced within the district, to promote the public health, comfort, convenience and welfare, and to accomplish all other purposes of the district, the board of directors is authorized to clean out, straighten, alter, deepen, or otherwise improve any stream, water-course, or body of water receiving sewage or other liquid wastes and located in or out of said district; to fill up any abandoned or altered stream, water-course, or body of water located in or out of said district; to construct and maintain laterals, trunk sewers, intercepting sewers, siphons, pumping stations, treatment and disposal works and improvements deemed necessary to accomplish the purposes of the district and to construct, preserve, operate or maintain such works in or out of said district; to construct connections to the works of the district for the delivery thereto of sewage and other liquid wastes; to incorporate with the works of the district or otherwise utilize any public sewers, drains or other sewerage improvements either without modifications or with such repairs, modifications or changes as are deemed necessary; to construct any and all of said works and

improvements across or through any public or private property in or out of said district; and to hold, encumber, control, acquire by donation, purchase or condemnation, and to construct, own, lease, use and sell any real or personal property, or any easement necessary for rights-of-way or location for the works and improvements of the district, or for any necessary purpose, or for obtaining or storing material to be used in constructing and maintaining said works and improvements.

This act shall not limit or interfere with the right of public corporations to install, maintain and operate sewerage systems as otherwise permitted by law. However, this Act shall give the board of directors full power and authority in the construction and maintenance of improvements for the purposes of the district to serve the area included within the district, and the board of directors shall have power to require the use of the improvements of the district by public corporations and persons included within the district and for which the improvements were installed.

The board of directors shall have made an annual audit by a certified public accountant. Copy of such audit shall be filed with the Secretary of State and with the County Judge of the county or counties in which the sanitary district is located.

§ 29. The board of directors shall, by resolution, determine the rates and compensation or rentals to be charged for the use of such sanitary works, which rates shall at all times be reasonable, taking into account the cost of the sanitary works, the cost of operation and maintenance thereof, and the amounts necessary for the amortization of the bonds issued to finance said works. The same schedule of rates and charges shall apply to all users of the same class. Such rates shall be binding upon all users of the sanitary system. The board of directors shall, however, have the authority to alter and revise such rates in its discretion.

In case of failure of any user to pay for services rendered, the board of directors may compel payment and may enjoin further use until such payment is made. The board of directors shall also have the authority to enter into contracts with public corporations or other large users of sewer services, such contracts to contain provisions mutually agreeable to both parties. All moneys received as compensation under the provisions of this paragraph shall be deposited in the bond and interest payment fund, in a depreciation fund and in a maintenance fund of the district for the maintenance and operation of such sanitary works, as herinafter provided.

§ 30. All contracts which may exceed five hundred dollars for work, material or supplies shall be advertised for bids not less than seven days before bids are to be received for such work, material or supplies by notice published once a week for two consecutive weeks (publication being complete on date of last publication), in at least one newspaper of general circulation within the district where the work is to be done or the materials or supplies used and the contract shall only be let to the lowest and best bidder who shall give bond with approved and ample surety for the faithful performance of the contract. The notice shall specify the general nature of the bid sought, give the time and date bids are to be received, and state where and how more specific information can be obtained. Such contract shall be in writing, and shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared by the chief engineer. The plans and specifications shall at all times be made and considered a part of the contract. Said contract shall be adopted by the board of directors and signed by the president of the board of directors and by the contractor, and shall be executed in duplicate and shall become a part of the records of the district.

§ 31. The district is hereby authorized to acquire by gift, devise, bequest, grant or purchase solely from the funds

provided under the authority of the Act, such lands, structures, rights-of-way, franchises, easements or other interests in land necessary to accomplish its purpose, as provided in this Act, upon such terms, privies or considerations as may be deemed by the board of directors to be reasonable and can be agreed upon between said board of directors and the owner or owners thereof. Title to all property acquired by the board of directors shall be taken in the corporate name of the sanitary district.

§ 32. The board of directors may, by resolution reciting such need, order the condemnation for the district of any interests, franchises, easements, property, rights or privileges, land or improvements which may, in the opinion of the board of directors be necessary for the proposed construction of any structure authorized in this act, and any property taken for a public use may again be taken by the district if necessary. Proceedings for condemnation shall be conducted in the manner prescribed by law for the condemnation of lands for railroad and turnpike road purposes. No payment or award in any condemnation proceedings or for the cost of such proceedings, or the expense thereof, shall be made except from the funds provided under the authority of this Act.

§ 33. Where necessary, in order to secure the best results from the construction, operation and maintenance of the works and improvements of the district and to prevent damage to the same from misuse, the board of directors may make and enforce regulations pertaining to the use of municipalities, public corporations and persons of the works and improvements of the district, and by such regulations may prescribe the design, construction and use of sewers within the district, the manner in which connections to laterals, trunk sewers, intercepting sewers, and to other works of the district shall be made, and may prevent the unnecessary pollution of any water course or supply within the district and may prohibit discharge into such sewers of any liquid or

solid wastes deemed detrimental to the works and improvements of the district. Provided, however, that such regulations shall have no effect until they have been approved by the state board of health. The district board of directors may recover by civil action from any persons, municipality, or public corporation violating such regulations, for each offense, in a sum not less than one hundred dollars nor more than one thousand dollars, together with costs. The directors shall have authority to enforce by mandamus or otherwise all necessary regulations made by them and authorized by this Act and may remove any improper construction or may close any connections made improperly or in violation of said regulations. Any public corporation, municipality, or person willfully failing to comply with such regulations shall be liable for damages caused by such failures and for the cost of renewing any construction damaged or destroyed.

§ 34. All public corporations or persons having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or upon the public streets, lanes, alleys or highways, which shall interfere with or impede the progress of construction, maintenance or repair of the works of the district shall, upon reasonable notice from the board of directors, promptly so shift, adjust, accommodate or remove the same as fully to meet the exigencies occasioning such action. Upon failure of any public corporation or person to make such changes the board of directors may do so. The reasonable cost and expense of such damages shall be met by the district.

§ 35. The board of directors shall also have the right to establish and maintain stream gages and rain gages, and may make such surveys and examinatons of rainfall, stream flow, and other scientific and engineering subjects as are necessary and proper for the purpose of the district, and they may issue reports of their findings.

§ 36. The board of directors shall also have the right

and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads or other corporations, with public corporations, and the state government of this or other states, with sewerage, drainage, conservation, conservancy, or other improvement districts, in this or other states, for cooperation or assistance in constructing, maintaining, using and operating the works of the district or the waters thereof, not in violation of the State Constitution; or for making surveys and investigations or reports thereon; and may purchase, lease or acquire land or other property in adjoining states in order to secure outlets or for other purposes of this Act, and may let contracts or spend money for securing such outlets or other works in adjoining states.

§ 37. The board of directors, as soon as duly appointed and qualified, shall have the power and authority to levy upon the property of the district, one and only one tax of not to exceed five cents for each one hundred dollars of assessed valuation at the last preceding assessment for State and County purposes of property within the district, to be used for the purpose of paying the expenses of organization, for surveys and plans, and for other incidental expenses which may be necessary up to the time money is received from the sale of bonds as hereinafter provided. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The collection of such tax levy shall conform to the collection of taxes for counties of the Commonwealth of Kentucky, as provided by law, and the same provisions concerning the non-payment of taxes shall apply. The tax herein authorized to be levied shall be added by the county clerk to the next state and county tax bill following the levy of such tax by the Board of Directors and shall be collected concurrently with such state and county taxes, provided however, that neither the county tax commissioner nor the county clerk shall be entitled to any additional

compensation for services rendered in connection with the listing of the property for taxation nor shall the sheriff receive any additional compensation for the collection of said taxes.

§ 38. In order to facilitate the preliminary work and payment therefor, the district through its board of directors may borrow money at a rate of interest not exceeding a yield of six per centum (6%) per annum, may issue, and sell, or deliver directly to its creditors negotiable evidence of indebtedness (herein called warrants) signed by the district by the members of the board of directors, and may pledge the preliminary tax of not exceeding five cents per one hundred dollars of assessed valution at the last preceding assessment, less a reasonable allowance for interest, as hereabove provided, after the same has been levied, for the repayment thereof. If any warrant issued by the board of directors is presented for payment and is not paid for want of funds in the treasury, that fact, with the date of refusal to pay, shall be endorsed on the back of such warrant, and the warrant shall thereafter draw interest at the rate of six per centum (6%) per annum until such time as there is money on hand, derived from the tax levy, sufficient to pay the amount of said warrant, with interest.

§ 39. For the purpose of defraying the cost of organizing the district, preliminary expenses after organization, acquiring any sanitary works authorized by this Act, and any appurtenances or extensions thereto, either by purchases or construction, the district through its board of directors may borrow money and issue negotiable bonds, provided that no such bonds shall be issued unless and until authorized by resolution specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of bonds to be issued and the maximum rate of interest such bonds are to bear, which shall not exceed six per centum (6%) per annum. Such resolution shall further provide that such

sanitary works and appurtenances which are to be acquired or the proposed extensions thereto, are to be acquired pursuant to the provisions of this Act.

§ 40. All bonds authorized under the provisions of this Act may be issued bearing interest at a rate not exceeding six per centum (6%) per annum, payable semi-annually, and shall be executed in such manner and be payable at such time, not exceeding forty (40) years from the date thereof, and at such place or places as such board of directors shall determine.

§ 41. Any and all such bonds shall have and are hereby declared to have in the hands of bona fide holders all of the qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. In case any officers whose signatures or countersignatures appearing on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or countersignatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the board of directors shall deem for the best interest of such sanitary district. In no event shall any bonds be sold on a basis to yield more than six per centum (6%) per annum. Such bonds, when issued shall be payable solely from the revenue funds derived from the rentals from services rendered by the district to the inhabitants thereof, as provided in Section 28, hereof, and shall not constitute an indebtedness of the sanitary district within the meaning of any constitutional provisions or limitations. It shall be plainly stated on the face of each bond that same has been issued under the provisions of this Act, and that it does not constitute an indebtedness of such sanitary district within the meaning of any constitutional provisions or limitations.

§ 42. All money received from any bonds issued pursuant hereto shall be applied solely for the purpose set forth

in Section 3 and 39 of this Act, provided that such money may be used also to advance the payment of interests on bonds during the first three years following the date of such bonds. And there shall be and there is hereby created a statutory mortgage lien upon all properties of the sanitary district to and in favor of the holder or holders of such bonds and to and in favor of the holder or holders of any coupons attached to said bonds, to secure the payment of such bonds and coupons.

§ 43. The sanitary works constructed or acquired by the board of directors, together with any extensions and appurtenances thereto, shall remain subject to the statutory mortgage lien, herein provided, until the payment in full of the principal of and interest on bonds. Any holder of such bonds, or of any of the coupons may, by proper proceedings, protect and enforce the statutory mortgage lien herein provided, and may enforce and compel by proper procedure including mandamus the performance of all duties required by this Act, including the making and collection of sufficient rates, the segregation of the income and revenue and the application hereof. The venue of such action shall be the county wherein said district or the largest area thereof lies.

§ 44. If there be any default in the payment of the principal of or the interest on any of said bonds, any court having general equity jurisdiction may appoint a receiver to administer the properties of the sanitary district on behalf of said district, with power to charge and collect rates sufficient to provide for the payment of any of the bonds or obligations outstanding against said properties, and for the payment of the operating expenses, and to apply the income and revenue in conformity with this Act and the resolution referred to in Section 39 hereof.

§ 45. At or before the issuance of such bonds, the board of directors of the sanitary district shall, by resolution set aside and pledge the income and revenue derived from serv-

ices rendered by its sanitary works into a separate and special fund to be used and applied in the payment of the cost thereof, and in the maintenance, operation and depreciation thereof. Such resolution shall definitely fix and determine the amount of revenue which shall be necessary and which shall be set apart and applied to the payment of the principal of and interest on the bonds, and the proportion of the balance of such income which is to be set aside as a proper and adequate depreciation fund and the remaining portion of such balance shall be set aside for reasonable and proper cooperation and maintenance thereof, except as herein provided.

The rates to be charged for the service from such works shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof, as and when the same becomes due and payable, and to provide for the operation and maintenance thereof, and to provide an adequate depreciation account; such rates shall be fixed and revised from time to time so as to produce these amounts, in accordance with the provisions of Section 29 hereof.

§ 46. If any surplus shall be accumulated in the operation and maintenance fund, which shall be equal to the cost of maintaining and operating the works of the district during the remainder of the calendar, operating or fiscal year, as may be provided by the resolution hereinabove required, and the cost of maintaining and operating such works during the succeeding like calendar year, operating or fiscal year, and excess over such amount may be transferred at any time by the board of directors to the depreciation account to be used for any improvements, extensions or additions to such works, as hereinafter provided.

§ 47. The funds accumulated in the depreciation account shall be expended in balancing the depreciation in the works of the district or in making new construction, extensions or additions thereto. Any such accumulations may be invested

by the board of directors as trust funds under the provisions of Chapter 128 of the Kentucky Statutes, and if invested, the income from such investments shall be carried in the depreciation account.

§ 48. The reasonable cost and value of any services rendered to a city, county, school district or other municipal corporation with the sanitary district and receiving services therefrom may be charged against such municipal corporation, school district, city or county and shall be paid for monthly, as the service accrues, from current funds or the proceeds of taxes of such municipal corporation, school district, city or county. Such funds so paid shall be accounted for in the same manner as other revenues of the sanitary district.

§ 49. Such sanitary district may issue new bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by this Act. Such new bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded.

§ 50. Should the board of directors find, prior to completion of the sanitary works already begun, that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds of like standing with the original issue may be authorized and issued subject to the procedure herein required.

§ 51. Any sanitary district acquiring any works pursuant to the provisions of this Act may, at the time of issuing the bonds for such acquisition, authorize the issuance of additional bonds for extensions and permanent improvements to be placed in escrow and to be negotiated from time to time, as such proceeds for that purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

§ 52. In like manner, such sanitary district acquiring any sanitary works under the provisions hereof may provide for the extension, addition or improvement of such sanitary works by an additional issue or issues of bonds, in the manner herein provided. Such bonds shall be junior in standing to the bonds of the issue authorized to finance the original construction, and shall constitute a second lien upon the revenues of the district, secured by a second statutory mortgage lien upon the properties thereof, and an additional bond and interest payment fund shall be established by resolution at the time of the issuance of such second lien bonds. Any surplus of funds which would otherwise be placed in the depreciation account shall be placed in such bond and interest payment fund for the payment of the principal of the interest on such lien bonds. The rates for services charged to the users of the works of the district may be increased to provide the additional revenue necessary to amortize such lien bonds.

§ 53. Such sanitary district, in acquiring any works under the provisions of this Act, may provide by resolution any such provisions and stipulations for the administration of the income and revenue, and for the security of the bond holders as the board of directors of such district may deem necessary.

§ 54. Where a municipality having existing sewers constructed and maintained by general tax funds of such municipality annexes an entire sanitary district, the city shall be bound for all the debts and liabilities, and be the owner of all the property and rights belonging to such sanitary district and the users of sewers in said district shall be relieved from any further rentals and obligations and the district shall thereupon be automatically dissolved, provided that if only a portion of a sanitary district shall be annexed, the amounts of the existing debts and liabilities for which such city shall be bound for, shall be in such proportion as the amounts of

rentals within the territory annexed bears to the amount of rentals in the entire district, and the city shall be the owner of all the sewers within the annexed portion and in addition thereto the city thus annexing shall in the same proportion contribute its proportionate share to the cost of the operation and maintenance of a sewer disposal plant or system as long as such plant or system is used by the property within the annexed area and the users of sewers in said annexed portion shall be relieved from any further rentals or obligations to the sanitary district. Any city thus annexing a portion of any sanitary district shall have the right to furnish sewage disposal for the portion of the district thus annexed and discontinue the use of the sewage disposal plant or system as set up by the district and upon the discontinuance of the use of the sewage disposal plant or system as set up by the sanitary district, the city shall be relieved from any further contribution towards its cost of operation or maintenance.

§ 55. No proceedings except as provided in this act shall be required for the acquisition of sanitary works or the issuance of bonds hereunder notwithstanding any contrary provision in the general laws of the Commonwealth, or the charter of any municipality which may be included within a Sanitary District organized under this act, and to that extent this act shall be construed to authorize an additional and alternate method of acquiring sanitary works and not as including, altering, amending or repealing any other statute.

§ 56. This Act, being necessary for and to secure the public health, safety, convenience and welfare of cities and counties in the Commonwealth of Kentucky, shall be liberally construed to effectuate the purposes hereof, and if any provision, section or part of a section of this Act is held to be unconstitutional, it shall not affect the validity of any other provision, section or part of a section hereof.

By Dr. Shields.

H. R. 71. A RESOLUTION electing on behalf of the Department of Welfare and of the Commonwealth of Kentucky to operate under the provisions of the Workmen's Compensation Act insofar as the employment of Thurman Moore was concerned and authorizing the filing of a claim with the Workmen's Compensation Board and directing that a hearing be held to ascertain whether Thurman Moore was at the time of his death an employee of the Department of Welfare and/or the Commonwealth of Kentucky and to determine whether he met his death as a result of an accident arising out of and in the course of his employment by the Commonwealth of Kentucky, and providing for the payment of benefits to his widow if awarded by the Workmen's Compensation Board.

Said resolution is as follows, viz.:

WHEREAS, on July 25, 1939, and for several months prior thereto, Thurman Moore was an employee of the Department of Welfare and the Commonwealth of Kentucky and was assigned as a guard at the State Reformatory at Frankfort, Kentucky, and in connection with his employment he was directed by his superiors to carry a loaded revolver to prevent any outbreaks or escapes and to preserve peace and order, and,

WHEREAS, on July 25, 1939, while the said Thurman Moore was on duty as a guard at the State Reformatory at Frankfort and was making his rounds and preserving and protecting the property of the Commonwealth and preventing convicts confined in said Reformatory from escaping, the revolver which the said Thurman Moore was carrying was caused to and did accidently discharge, and so seriously wounded Thurman Moore that he died as a result thereof within four hours thereafter, on July 26, 1939, and,

WHEREAS, Thurman Moore at the time of his death was of the age of fifty-two and during his lifetime had been in good health, free of any maladies or disabilities, and had been regularly employed and had an earning capacity of at least ninety dollars per month, and,

WHEREAS, there was left surviving him his widow, Laura Smith Moore, who is of the age of forty-seven, and five children, Selbert Moore, Ray Moore, Ruby Moore, Leona Moore and Carl Moore, three of whom are now twenty-one or more years of age, and two of whom are under the age of twenty-one and dependent upon their mother for support, maintenance and education, and,

WHEREAS, the widow, Laura Smith Moore, devoted her fulltime during her marriage to Thurman Moore to managing their home and raising their children and did not accept employment of any kind and did not undertake to train herself for any type of gainful employment and is now without means of adequately or at all supporting her children or herself, and,

WHEREAS, Thurman Moore was unable to and did not accumulate any estate during his lifetime and at the time of his death left only such a sum in insurance as would defray the expenses of burial, and,

WHEREAS, Laura Smith Moore lost her husband and these children lost their father as a result of injuries sustained by him and arising out of and in the course of his employment by the Department of Welfare and the Commonwealth of Kentucky, and,

WHEREAS, the Department of Welfare and the Commonwealth of Kentucky have a moral obligation to assist and aid Laura Smith Moore and these children by reason of the loss of Thurman Moore, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky that:

§ 1. The Department of Welfare and the Commonwealth of Kentucky hereby elect to accept and avail themselves of the provisions of the Workmen's Compensation Act insofar as the employment of Thurman Moore is and was concerned, and hereby authorizes and directs the Workmen's Compensation Board to permit Laura Smith Moore to file a claim for compensation with the Board within twelve months from the effective date of this Resolution.

§ 2. The Workmen's Compensation Board is hereby authorized and directed to conduct a hearing and to ascertain whether Thurman Moore was an employee of the Department of Welfare and of the Commonwealth of Kentucky at the time he received the injuries and whether he received his injuries from an accident arising out of and in the course of his employment and whether he died as a result of such injuries. Should the Board at such a hearing determine that Thurman Moore was employed by the Department of Welfare and the Commonwealth of Kentucky and that he received injuries from an accident arising out of and in the course of his employment and that as a result of said accident he died, the Board is authorized and directed to award to the widow, Laura Smith Moore, the compensation provided in Section 4893, et seq., Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

§ 3. Should the Board determine that it is for the best interest of either party, it may order that the compensation awarded to Laura Smith Moore be commuted to a lump sum as provided by Section 4907, Carroll's Kentucky Statutes, Baldwin's 1936 Edition. The order of the Board awarding compensation to Laura Smith Moore or commuting to a lump sum any benefits that may be awarded her shall be certified by the Board to the Commissioner of Finance who is authorized and directed to draw a warrant in payment thereof upon the State Treasurer, and the same shall be paid out of the General Fund or out of any funds in the State Treasury not otherwise appropriated.

By Mr. Daugherty.

H. R. 72. A Resolution authorizing Harvey Board to sue the Commonwealth of Kentucky and/or the Department of Highways.

Said resolution is as follows, viz.:

WHEREAS, on August 7th, 1937, Harvey Board was injured in an automobile accident near Spotsville, Henderson County, Kentucky, and

WHEREAS, it is claimed that said accident was brought about by the negligence and carelessness of the Commonwealth of Kentucky, and/or the Department of Highways through its agents, servants and employees,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Harvey Board be and he is hereby authorized to sue the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky in the Circuit Court of Henderson County, Kentucky, for such damages as may have been suffered by him through personal injuries by reason of the negligence of the Department of Highways, its servants, agents or employees. In the event a judgment is recovered by said party, or said claims are compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasury and payable out of the general fund.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil case, and said case may be settled and adjusted with the approval of the Attorney General of Kentucky as in any other similar action.

By Mr. Hunt.

H. R. 73. A RESOLUTION authorizing Jake Ruby to sue the State Highway Commission or the Commonwealth

of Kentucky or either, whereas on February 10, 1939, in Daviess County, Kentucky, it is alleged the State Highway Department by its negligence permitted logs and other obstructions to pile up on a state highway in Daviess County so that the said obstruction created a hazard to those driving along said road, and whereas Jake Ruby was operating a motor truck along said highway, which by reason of said obstructions, caused Jake Ruby to wreck his truck and damage his property.

Said resolution is as follows:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Jake Ruby be and he is hereby authorized and permitted to sue the State Highway Commission or the Commonwealth of Kentucky or both in the Daviess Circuit Court for such damages as he may have suffered if any by reason of any damage suffered to his property through the carelessness and negligence of the State Highway Commission its agents or employees in permitting an obstruction to exist on a state highway without warning Jake Ruby who had a right to pass along said highway.

In the event this suit is compromised or settled or in the event of a judgment, the Commissioner of Finance shall draw his warrant in favor of Jake Ruby on the State Treasurer and he shall be paid out of the General Fund.

Either party to said suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

By Mr. Greene.

H. R. 74. A RESOLUTION authorizing Mona Pearl Jones Kidd, an infant, by her statutory guardian or next

friend, to sue the Commonwealth of Kentucky for damages resulting to her from injuries received at the Morehead State Teachers College at Morehead, Rowan County, Kentucky, and providing for payment of the judgment, if any judgment be obtained.

Said resolution is as follows:

WHEREAS, on or about the 22nd day of May, 1937, Mona Pearl Jones Kidd, was employed in the cafeteria or restaurant of the Morehead State Teachers College at Morehead, and,

WHEREAS, in the course of the performance of her duties as such employee she was required to wait upon the various customers dining at said cafeteria or restaurant and to remove and carry large trays of food, and,

WHEREAS, the persons in charge of said cafeteria or restaurant did permit the floor of the cafeteria or restaurant to become in a slick or unsafe condition for the persons therein working and customers visiting said cafeteria or restaurant and did permit the floor to become covered with milk, which caused the floor to become in an unsafe condition and did permit the said floor to remain in said condition for some period of time, and,

WHEREAS, the said Mona Pearl Jones Kidd, an infant under the age of twenty-one, while in the course of the performance of her duties and without negligence on her part and without knowledge of the dangerous condition of the floor, was caused to and did fall as a result of the slick condition of the floor and of the accumulation of milk thereon, and as a result thereof she was caused to and did sustain a severe injury to her hand so that it was necessary for her to obtain and she did obtain surgical treatment requiring an operation, and that as a result of the injuries so received the nerves in her hand were severed so that she has permanently lost the use of her hand and is now and forever will be permanently injured and deformed, and,

WHEREAS, she and her parents are poor people in humble circumstances and unable to properly subsist as a result of the impairment of her power to earn money, and,

WHEREAS, this serious and permanent injury was sustained through the alleged negligence and carelessness of employees and supervisors of the Commonwealth of Kentucky in the operation, performance and supervision of the cafeteria or restaurant of the Morehead State Teachers College, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky that:

Mona Pearl Jones Kidd, an infant, be and she is authorized, empowered and permitted, by her statutory guardian or next friend, to sue the Commonwealth of Kentucky in the Rowan Circuit Court for such damages as she may have sustained, if any, on or about the 22nd day of May, 1937, as a result of injuries received by her due to the negligence or carelessness of employees or supervisors of the Morehead State Teachers College at Morehead, Kentucky. In such suit plaintiff will be permitted to show all of the facts and circumstances as to whether or not the employees or any employee or supervisor of the Commonwealth of Kentucky was negligent in the supervision, management or operation of the cafeteria or restaurant of the Morehead State Teachers College, and if the jury shall decide that there was such negligence on the part of any employee or supervisor of the Commonwealth of Kentucky and that as a direct and proximate result thereof that said Mona Pearl Jones Kidd received her injuries then she may recover from the Commonwealth of Kentucky such sum as will fairly and reasonably compensate her for the injuries and damages so sustained by her. In the event the plaintiff obtains a judgment the amount thereof shall be paid by a warrant drawn by the Commissioner of Finance upon the State Treasurer and shall be paid out of the general fund. The Attorney General is hereby authorized

and empowered to compromise and settle said claim either before or after the filing of the suit upon such terms as may be agreed. Either party shall have the right of appeal from any judgment of the Circuit Court as in any other civil case.

By Mr. Daugherty.

H. R. 75. A Resolution authorizing the executrix of M. J. McCarthy, deceased, to sue the Commonwealth of Kentucky and/or the Department of Highways.

Said resolution is as follows:

WHEREAS, on August 7, 1937, M. J. McCarthy was killed in an automobile accident near Spotsville, Henderson County, Kentucky, and

WHEREAS, it is claimed that said accident was brought about by the negligence and carelessness of the Commonwealth of Kentucky, and/or the Department of Highways through its agents, servants and employees.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the executrix of M. J. McCarthy, deceased, be and she is hereby authorized to sue the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky in the Circuit Court of Henderson County, Kentucky, for such damages as may have been suffered by the estate of the said M. J. McCarthy by reason of the negligence of the Department of Highways, its servants, agents or employees. In the event a judgment is recovered by said party, or said claims are compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasury and payable out of the general fund.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil case, and said case may be settled and adjusted with the approval of the Attorney General of Kentucky, as in any other similar action.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced as follows:

H. B. 352. Fish and Game No. 1-A.

H. B. 353. Alcoholic and Liquor Control No. 1.

H. B. 354. Cities of First Class.

H. B. 355. Public Utilities.

H. B. 357. Fish and Game No. 1-A

H. B. 358. Kentucky Statutes No. 1.

H. B. 360. Judiciary.

H. B. 361. Education No. 1.

Joint Res. 67. Claims.

H. R. 68. Claims.

Mr. Robinson moved that the House adjourn.

Said motion was agreed to.

And then the House adjourned

WEDNESDAY, FEBRUARY 14, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Cecil Florence	B. W. Porter
J. Everett Bach	Wayne Freeman	H. O. Porter
H. T. Baker	Eugene Gough	Kleber F. Price
G. M. Ballard	Van Y. Greene	Hobart Rayburn
Robert E. Barry	Ralph C. Hamilton	Thomas Rigdon
Wm. T. Beard	C. L. Hammons	W. H. Riley
Alvis S. Bennett	T. H. Hickey	Joe E. Robinson
Rell Bevins	Clyde S. Howard	Lyman Roll
Sterling B. Blake	Chester Huffines	Jack Savage
Douglas T. Bolling	John M. Hunnicutt	Carl Scheben
J. F. Bosworth	W. H. Hunt	Leon J. Shaikun
W. S. Brim	R. L. Jackson	Ray O. Shehan
C. J. Bronston	J. B. Jarboe, Jr.	Faust Y. Simpson
Gus A. Brooks	Chas. X. Jones	Bruce Sloan
Randolph A. Brown	John S. Juett	Otto Smither
Haynes Carman	W. A. Lamkin, Jr.	G. C. Springate
Charles M. Carter	Robert E. Lee	J. Claude Stacy
James W. Chapman	Harvey D. Leonard	Ray J. Stengel
S. B. Chrisman	Edward Leslie	Henry Stewart
John Coulter	W. Paul Lyon	W. St. Clair Stuart
John H. Cox	C. C. May	T. M. Swope
Pink G. Curd	T. B. McConnell	Otis C. Thomas
W. Q. Daniel	Frank C. McElwain	Erna E. Tyra
F. E. Daugherty	E. Hayes McMakin	J. Wood Vance
Stanley S. Dickson	Norris McPherson	Walter R. Vansant
Louis B. Dugan	Stanley C. Moebus	S. J. Wagner
Forest C. Easley	John B. Mollette	Porter Wallace
D. E. Edwards	J. Lee Moore	Harry F. Walters
Harry W. Ennis	Davis Moore	Henry Ward
R. R. Ernst	Joe T. Morgan	H. L. Waterfield
Carlos Fallis	C. Homer Neikirk	James H. Woods
T. P. Fitzpatrick	Carl D. Perkins	—95

Mr. Bach moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Carl Perkins moved that the privilege of the floor be extended to Mrs. Everett Buster of Springfield, Kentucky.

Said motion was agreed to.

Mr. Stewart moved that the privilege of the floor be extended to Mr. E. R. Hilton, of Greenup county.

Said motion was agreed to.

Mr. Ennis moved that the privilege of the floor be extended to Mr. and Mrs. William Rabold of Bowling Green, Kentucky.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Mr. E. B. Whalen of Raceland, Kentucky.

Said motion was agreed to.

Mr. Carter offered the following resolution, viz.:

H. Res. 79. Resolution endorsing and approving the Federal Hydroelectric Project at Jews Harp Dam on Barren River in Allen county, Kentucky.

Whereas, the Tennessee Valley Authority of the United States Government has initiated a Federal Hydroelectric Project at Jews Harp Dam on Barren River in Allen county, Kentucky, and

Whereas, the completion of the Project will result in benefit to the citizens of the Commonwealth of Kentucky, and

Whereas, the General Assembly of the Commonwealth of Kentucky desires that the Project be carried to completion with all reasonable dispatch, now therefore

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the General Assembly of the Commonwealth of Kentucky does endorse and approve the Federal Hydroelectric Project at Jews Harp Dam on Barren River in Allen county, Kentucky, and urges that the Project be carried to completion with all reasonable dispatch.

That the Clerk of the House of Representatives is directed to forthwith forward a copy of this resolution to the Tennessee Valley Authority of the United States Government.

Said resolution was adopted.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled bills of the following titles, viz.:

H. B. 96. An Act to provide that registration books in precincts of cities of the third class in which such cities are not the county seat etc.

H. B. 71. An Act providing for the procedure to be instituted by fiscal courts in condemnation proceedings to acquire land for public roads.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bills duly signed by the President

of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Cox of the Committee on Education 1-A.

H. B. 331. An Act relating to school districts and subdistricts, and amending Sections 4399-6 and 4399-7 of Carroll's Kentucky Statutes, 1936 Edition.

Without an expression of opinion.

H. B. 272. An Act to amend Sec. 2437 of Carroll's Kentucky Statutes, 1936 edition, relating to the preservation and protection of public books.

By Mr. Shaikun of the Committee on Cities of the First Class.

H. B. 342. An Act to repeal, amend and re-enact Sec. 2857, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to special park police for parks, etc.

H. B. 354. An Act pertaining to the use of police radios and providing who may and may not use and have in their possession etc.

By Mr. Vansant of the Committee on County and City Courts.

H. B. 102. An Act requiring the Commonwealth of Kentucky to furnish and pay for certain county record books.

With an amendment thereto by way of Substitute therefor.

By Mr. McPherson of the Committee on Motor Transportation.

H. B. 249. An Act to regulate the issual of in transit license plates, and the fees to be charged, etc.

Without an expression of opinion.

H. B. 165. An Act to regulate the caravaning of motor vehicles upon the public highways.

Without an expression of opinion.

With the expression of opinion that said bills ought to pass, with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Waterfield of the committee on County and City Courts.

H. B. 242. An Act to amend Sec. 1840f-1 of Carroll's Kentucky Statutes, 1936 Edition, relating to the county for crows.

By Mr. McPherson of the Committee on Motor Transportation.

H. B. 60. An Act repealing, amending and re-enacting Sec. 2739g-13 and 2739g-64 of Baldwin's 1936 Edition, relating to transfers of motor vehicles and providing penalties.

H. B. 226. An Act requiring motor-trucks and semi-trailer trucks to be equipped with stop-lights, etc.

With the expression of opinion that said last named bills ought not to pass.

No motion having been made to advance said bills to a reading, the report of the Committee to the contrary notwithstanding and no further action having been taken by the House on said bills, it was ordered that said bills be not read at length the first time and so said bills were rejected.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 321. AN ACT relating to all classes of property actually or presumptively subject to escheat; providing the terms upon which presumption of abandonment of property and presumption of the death of persons shall be determined; providing how and when said property may be escheated to the Commonwealth of Kentucky; providing for the reduction of all such property to cash, transferring the possession of same to the Treasurer of Kentucky; providing how any person who is legally entitled thereto may recover same from the Treasurer; providing that any person transferring property to the Commonwealth as required by this Act shall be relieved of liability to the owner thereof or reimbursed for any liability or damage incurred by complying with this Act; defining certain words; providing for reports and examination of records; providing for the administration and enforcement of this Act, and for an Assistant Attorney General as incident thereto; providing fines, penalties, and imprisonment for failure to comply with this Act; providing that if any provision of this Act shall be held unconstitutional that it is the Legislative intent that all other provisions thereof shall remain in force and effect; repealing sections 1610, 1612, 1613, 1614, 1615, and 1617 of Carroll's Kentucky

Statutes, Baldwin's 1936 Revision; repealing all Acts and parts of Acts in conflict with this Act; repealing Chapter 168, Acts of the Regular Session of the 1938 General Assembly of the Commonwealth of Kentucky; and repealing, amending and re-enacting sections 1606, 1607, 1608, and 1609 of Carroll's Kentucky Statutes Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sections 1610, 1612, 1613, 1614, 1615, and 1617 of Carroll's Kentucky Statutes, 1936 edition, and Chapter 168, Acts of the Regular Session of the 1938 General Assembly be, and the same are hereby repealed.

§ 2. Whenever used in this Act, unless the context requires otherwise, the word "person" shall mean and include any individual, state and national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Whenever used in this Act, unless the context requires otherwise, the word "claim" shall mean to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved.

§ 3. That section 1606 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted so that when amended and re-enacted it shall read as follows:

That part of estates or property having a situs in this Commonwealth, not disposed of by will of persons who have died, or may hereafter die without heirs or distributees entitled to the same; or which have been or may hereafter be devised to any person, or any heir or distributee or devisee of such person or of the testator, who has not claimed the same or shall not claim the same within eight (8) years after such

death, shall vest in the Commonwealth, subject to all legal and equitable demands on same. All such property shall be liquidated and the proceeds thereof, less costs, fees, and expenses incidental to all legal proceedings of such liquidation shall be paid to the Department of Revenue. Any estates or property except a perfect title to a corporal hereditament, which estates or property have been abandoned by the owner thereof, shall also vest in the Commonwealth, subject to all legal and equitable demands on same. All such property shall be liquidated and the proceeds thereof, less costs, fees, and expenses incidental to all legal proceedings of such liquidation shall be paid to the Department of Revenue.

§ 4. That section 1607 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted so that when amended and re-enacted it shall read as follows:

The personal representatives of persons, whose estates or a part of whose estates are not distributed by will, and who died without heirs or distributees entitled to same, shall settle their accounts within one (1) year after qualifying as such and pay over to the Department of Revenue the proceeds of all personal estate, first deducting the proper legal liabilities of the estate.

(1) If the whole personal estate cannot be settled and the accounts closed within one (1) year, the settlement as far as practicable, shall then be made and the proceeds paid over to the Department of Revenue, and the residue shall be so settled and paid over as soon thereafter as can be properly done.

(2) The personal representative shall take possession of the real estate of such decedent not disposed of by his will, and rent out the same from year to year until it is otherwise legally disposed of, and pay the net proceeds to the Department of Revenue.

(3) The personal representative shall also make out and transmit to the Department of Revenue a description of

the quantity, quality, and estimated value of such real estate and its probable annual profits.

§ 5. That section 1608 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

If any devisee or his heirs, devisee or distributee, or any heir or distributee of a testator has failed or shall hereafter fail for eight (8) years to claim his legacy the personal representative of such testator or other person having the same in possession shall, after deducting the legal liabilities thereon, pay and deliver over such legacy, whether the same be real or personal estate, and the net profits thereof to the Department of Revenue.

§ 6. That section 1609 of Carroll's Kentucky Statutes, 1936 edition, be repealed, amended, and re-enacted, so that when amended and re-enacted it shall be read as follows:

When any person owning property or estates having a situs in this Commonwealth is not known to be living for seven (7) successive years, and neither said owner, his heirs, devisees, or distributees can be located or proved to have been living for seven (7) successive years, such person shall be presumed to have died without heirs, devisees, or distributees, and both his real and personal estate shall be liquidated and the proceeds, less costs incident to the liquidation and any legal proceedings, and less the liabilities which have been properly claimed and approved against same, shall be paid to the Department of Revenue.

§ 7. When the owner or owners (whether such ownerships be legal, beneficial, equitable, or otherwise) of deposits payable on demand in any bank or trust company (either state or national) within this Commonwealth, have not or shall not within ten (10) successive years next preceding the date as of which reports are required to be made by section 8 of this Act, (a) negotiated in writing with the bank or trust company in respect thereto, or (b) been credited with

interest on the passbook or certificate of deposit on his or their request, or (c) had a transfer, disposition of interest, or other transaction noted of record in the books or records of such bank or trust company, or (d) increased or decreased the amount of the deposit, such deposit and the interest thereon shall be presumed abandoned.

When the owner or owners (whether such ownerships be legal, beneficial, equitable, or otherwise) of deposits other than those payable on demand in any bank or trust company (either state or national) within this Commonwealth, have not or shall not within twenty-five (25) successive years next preceding the date as of which reports are required to be made by section 8 of this Act, (a) negotiated in writing with bank or trust company in respect thereto, or (b) been credited with interest on the passbook or certificate of deposit on his or their request, or (c) had a transfer, disposition of interest, or other transaction noted of record in the books or records of such bank or trust company, or (d) increased or decreased the amount of the deposit during said period, such deposits and the interest thereon shall be presumed abandoned.

All deposits of money, stocks, bonds, or other credits of any kind whatsoever made to secure payment for services rendered or to be rendered, or to guarantee the performance of services or duties, or to protect against damage or harm and the increments thereof, shall be presumed abandoned unless claimed by the person entitled thereto within ten (10) years after the occurrence of such event as would obligate the holder or depository to return the same or the equivalent thereof to the proper owner or claimant.

All dividends, stocks, and bonds and the increments thereof, all monies and credits and the increments thereof, all claims for monies and credits and the increments thereof, and all intangible personal estate or property whatsoever and the increments thereof, held within this Commonwealth by any person for the benefit of another person shall be pre-

sumed abandoned unless claimed by the beneficiary or person entitled thereto within ten (10) years from the time the holder, trustee, debtor, or other responsible person became obligated to return the same or the equivalent thereof to the proper owner or claimant. If the increments or benefits payable on any instrument are not claimed within the time and manner prescribed in this paragraph, the instruments or evidence of the debt or obligation shall likewise be presumed abandoned.

All estate or property paid into any court of this Commonwealth for distribution and the increments thereof shall be presumed abandoned if not claimed within five (5) years after the estate was so paid into court, or as soon after said five (5) year period as all claims filed in connection therewith shall have been disallowed or settled by the court.

None of the provisions of this Act shall apply to bonds of counties, cities, school districts, or other tax levying subdivisions of this Commonwealth.

§ 8. It shall be the duty of all state and national banks, trust companies, or other persons, and courts of this Commonwealth or the agents thereof, whether holding estates or property as bailee, depository, debtor, trustee executor, liquidator, administrator, distributor, receiver, or other capacity coming within the purview of section 7 of this Act, to report annually to the Department of Revenue as of July 1, all property held by them declared by this Act now to be presumed abandoned, and all property which shall hereafter become presumed abandoned under the provisions of this Act. The report shall be filed in the offices of the Department of Revenue in Frankfort on or before September 1 of each year for the preceding July 1, and shall give the name of the owner, his last known address, the amount and kind of property, and such other information as the Department of Revenue may require for the administration of this Act. Such person or court as may have made report of any estate

or property presumed abandoned, as required in this Act, shall, within four (4) months after July 1, turn over to the Department of Revenue all property so reported; except that if the person making such report, or any other person or persons are able to prove by competent evidence on hearing before the Commissioner of Revenue that the owner or person entitled to the property has subsequently within said four (4) months transacted business resulting in writing of record in the books of the person or court making the report, which shows the owner or person entitled to the estate or property has knowledge thereof and still claims has legal or equitable right thereto or has by other competent evidence clearly manifested such knowledge or claim, it shall not be the duty of the person or court making such report or in possession of such property to surrender it to the Department of Revenue.

§ 9. Any intangible personal estate or property required by sections 7 and 8 of this Act to be liquidated so as to permit payment thereof to the Department of Revenue, shall be surrendered to the Department of Revenue and sold by the Department of Revenue at public sale at Frankfort, or in such other city in the Commonwealth as may in its judgment afford the most favorable market for the particular property involved, to the highest bidder; provided that it may decline the highest bid and re-offer the property for sale if it deems the price offered insufficient. Such sale shall be advertised at least one week before the date of the sale in a newspaper of general bona fide circulation in the county where said property was found or abandoned, and in the county where said property was found or abandoned, and in the county where the sale is to be made, and the sale shall be held at the courthouse door.

§ 10. Any person who shall transfer to the Department of Revenue, property to which the Commonwealth is entitled under the provisions of this Act, is hereby relieved of any

liability to the owner of such property arising from such transfer; however, if any such person cannot be relieved of such liability by the provisions of this section, the Commonwealth shall reimburse such person for all liability to the owner of the property or estate or damage incurred by reason of compliance with the provisions of this Act.

§ 11. Any person claiming an interest in estates or property paid or surrendered to the Commonwealth in accordance with the provisions of sections 3, 4, 5, or 6 of this Act, who was not actually served with notice and who did not appear, and whose claim was not considered during the action or at the proceedings which resulted in the payment of same to the Commonwealth, may within five (5) years after the judgment file his claim thereto with the Department of Revenue.

Any person claiming an interest in estates or property paid or surrendered to the Commonwealth in accordance with sections 7, 8, or 9 of this Act, which was not subsequently adjudged under the procedure set out in section 16 of this Act to have been actually abandoned, or owned by a decendent who had no heir, distributee, devisee, or other person entitled under the laws of this Commonwealth relating to wills, descent and distribution, to take the legal or equitable title to such estate or property, may file his claim thereto at any time after same was paid to this Commonwealth.

The claimant shall within fifteen (15) days after filing any claim permitted under this section publish notice of such claim in a newspaper of general bona fide circulation in the county in which the property was held before being transferred to the Commonwealth as herein provided. If there be no such newspaper, the claimant shall post such notice at the courthouse door and in three other conspicuous places in said county, and shall file proof of such publication or posted notice with the Department of Revenue. No such claim shall be allowed until fifteen (15) days after proof of such notice

is received by the Department of Revenue at its offices in Frankfort.

§ 12. It shall be the duty of the Commissioner of Revenue to consider any claim and/or defense permitted to be filed before it and to hear evidence in respect thereto. If the claimant establishes his claim, the Commissioner of Revenue shall, when the time for appeal or further legal procedure herein provided has expired, authorize payment to him of a sum equal to the same amount which was paid into the Treasury in compliance with this Act. The decision shall be in writing and shall state the substance of the evidence heard by the Commissioner of Revenue if a transcript thereof be not kept and such decision shall be a matter of public record.

Any person, petitioner, or claimant dissatisfied with the decision of the Commissioner of Revenue may within sixty (60) days, appeal from such decision to the Franklin Circuit Court or file an action in said court to vacate such decision. In either event the proceedings shall be de novo, and no transcript of the record before the Commissioner of Revenue shall be required to be kept unless requested by the claimant. In any such proceeding before the Franklin Circuit Court, the Commissioner of Revenue shall be made a party defendant, and all other persons required by law to be made parties defendant or plaintiff and served with actual or constructive notice in rem or quasi in rem actions shall be so treated. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Kentucky Court of Appeals in the manner now generally provided by law, but such proceeding must be commenced within sixty (60) days after the judgment. However, the Commonwealth shall in no event be required to make a supersedeas bond. The provisions of this section which relate to the decision of the Commissioner of Revenue and appeals therefrom shall also apply to a decision of the Commissioner rendered under authority

of section 8 of this Act requiring payment to the Department of Revenue over the protest of the holder or claimant of the property.

§ 13. Whenever any estate or property, which may be escheated under the provisions of this Act by reason of actual abandonment, or death and for presumption of death of the owner without an heir, distributee, devisee or other person entitled to take the legal or equitable title to such estate or property under the laws of this Commonwealth relating to wills, or descent and distribution, has or shall hereafter be deposited with, or in the custody of, or under the control of any court of the United States in and for any district within this Commonwealth, or in the custody of any depository, clerk or other officer of such court, or shall have been surrendered by such court or its officers to the United States Treasury, the circuit court of this Commonwealth in any county in which such court of the United States sits, shall have jurisdiction to ascertain whether an escheat has occurred, and to enter a judgment of escheat in favor of the Commonwealth. Provided, however, this section shall not be construed as authorizing a judgment to require such courts, officers, agents, or depositories to pay or surrender such funds to the Commonwealth on a presumption of abandonment as provided in sections 7 and 8 of this Act.

§ 14. To aid in the enforcement and administration of the provisions of this Act, the Attorney General shall, with the approval of the Governor, appoint an additional Assistant Attorney General, having at least the qualifications of the Sixth Assistant Attorney General, and assign him to the Department of Revenue. It shall be the special duty of such Assistant Attorney General to represent the Commonwealth at the hearings required by this Act to be held before the Commissioner of Revenue to consider claims filed pursuant to section 11 of this Act; to advise the Department of Revenue, county attorneys, and all other inquiries, with

respect to questions arising under the provisions of this Act; to aid in the prosecution of all other actions or proceedings authorized by this Act when so directed by the Commissioner of Revenue or the Attorney General; and to perform such other duties as are imposed on him by any provision of this Act. Provided, however, his opinions shall be subject to the approval of the Attorney General in the same manner as is such work of other Assistant Attorneys General now established by law, and he shall also have the other ordinary powers and duties of an Assistant Attorney General.

He shall receive a salary not exceeding four thousand dollars ($4,000) a year, to be fixed by the Attorney General and the Commissioner of Revenue as provided by law, which shall be paid on authorization of the Commissioner of Revenue in the same manner as employees of the Department of Revenue are generally paid.

§ 15. All legal proceedings to enforce sections 3, 4, 5, and 6 of this Act shall be instituted on the relation of the Commissioner of Revenue.

It shall be the duty of the county attorney of a county in which any estate or property is located, coming within the purview of sections 3, 4, 5, or 6 of this Act, to institute such legal proceedings as are necessary to enforce the provisions of said sections and to recover such sums as are due the Commonwealth thereunder. The petition and all pleadings necessary to be filed in such proceedings shall be on the relation of the Commissioner of Revenue and shall be sent to the Commissioner of Revenue for his signature and approval. The petition shall be accompanied by an affidavit of the county attorney, stating the facts on which it is based. For all other pleadings, there shall be a statement by the county attorney of the reason for the particular pleading.

On any action or proceeding filed by a county attorney under the provisions of this Act, it shall be the duty of the Assistant Attorney General, provided for in section 14 of this

Act, to offer assistance and suggestions to the county attorney in the preparation of the petition or any pleadings, and to revise and correct same as he may deem necessary, subject to the ultimate approval of the Commissioner of Revenue, when he is required to sign same.

If the estate or property of a person coming within the purview of sections 3, 4, 5, or 6 of this Act is located in two or more counties, all such property may be included in one action or proceeding; provided, however, that the county attorneys of all counties in which such property is located may join in the prosecution of the action or proceeding, and their fees shall be determined by the amount of money derived from the property located within their respective counties when possible to determine such figure; otherwise, the courts shall determine their fees by equitable apportionment in accordance with the value of the property which is located in their respective counties.

If the county attorney performs all the duties imposed upon him by this Act relating to enforcement of the provisions of sections 3, 4, 5, or 6, he shall be entitled to a fee of fifteen per cent (15%) of any sum recovered in such proceeding, except that the county attorney's fee shall be limited to five per cent (5%) on intangible property recovered in excess of one thousand dollars ($1,000).

In the event that a county attorney declines to perform the duties imposed upon him by this Act, they may be performed by the Commissioner of Revenue and the county attorney shall not be entitled to any fee. The Commissioner may, when he deems it to the best interest of the Commonwealth, institute any action authorized by this Act to be brought by the county attorney, or join the county attorney in the active prosecution of any such action. The county attorney shall be entitled to his fee in either instance if he does his duty.

Pending the outcome of an action or court proceeding,

the court may make such disposition of the land or tangible personal property involved as may seem best from the standpoints of use, rents, interest, and profits. In the event the use of the property is given to the claimant by the court, such claimant shall be held accountable for returns and profits arising from such use, if the Commonwealth be successful in such proceeding.

§ 16. In the event any person refuses to pay or surrender voluntarily intangible estate or property to the Department of Revenue, as provided in sections 7 or 8 of this Act, or if the agent of any court refuses so to do, a proceding may be brought on the relation of the Commissioner of Revenue as an equity action in a court of competent jurisdiction to force such payment or surrender of property, and all property subject to said sections 7 and 8 may be listed and included in a single action.

If intangible estates or property are turned over to the Department of Revenue on presumption of abandonment, in accordance with sections 7, 8, or 9 of this Act, the Commissioner of Revenue may at any subsequent time institute proceedings in a court of competent jurisdiction to establish conclusively that such estate or property was actually abandoned, or that the owner thereof is dead and there are no heirs, devisees, distributees, or any other persons entitled to succeed to the title of same.

In the event a particular person or persons may have property coming within the purview of sections 3, 4, 5, or 6 of this Act, and also sections 7 or 8 of this Act, the actions herein required to be brought by the county attorney and the Commissioner of Revenue may be joined, but joinder is not required, and if separate actions shall be brought, they shall not be considered as coming within the rule against splitting a cause of action. The county attorney shall not be charged with the duty of enforcing sections 7, 8, 9, and 12 of this Act.

The procedure for any and all actions or proceedings

permitted or necessary under this Act to be filed in a court of competent jurisdiction shall be the same as that now provided by Carroll's Kentucky Civil Code of Practice, unless provided differently herein, except that all such actions or proceedings shall be filed as equity actions.

§ 17. All money received by the Department of Revenue under the provisions of this Act shall be deposited with the State Treasury and credited to the acount of the General Expenditure Fund; provided, however, that ten per cent (10%) of such sum so received during the fiscal year beginning July 1, 1940, and ten per cent (10%) of such sum so received during the fiscal year beginning July 1, 1941, shall be added to and made a part of the appropriation available to the Department of Revenue for the respective fiscal years. After June 30, 1942, the legislature shall make provision for the administration of this Act in the regular budgetary appropriation made for the Department. All the expense necessary and required to be paid by the Commonwealth in administering and enforcing this Act shall be paid out of the funds available to the Department of Revenue, and such expenses shall be paid in the same manner as other claims upon the Commonwealth are paid.

The county attorney shall act as agent of the Department of Revenue for the collection of all judgments recovered in actions prosecuted by him under the provisions of this Act and he shall deduct the fee allowed him for his services performed pusuant to this Act, and promptly remit such collections to the Department of Revenue, with such information relating thereto as the Department may require.

§ 18. Any action permitted by this Act to be brought by the Commonwealth must be brought within fifteen (15) years from the effective date of this Act or from the time when the cause of action accrued, whichever is the later date.

§ 19. Any person under disability affected by this Act shall have five (5) years after the disability is removed in

which to take any action or procedure or make any defense allowed to one sui juris.

§ 20. The Department of Revenue, through its employees, is also authorized to examine all records of state and national banks or trust companies, corporations, companies, partnerships, agencies, and persons where there is reason to believe that there has been or is a failure to report property which should be reported under the provisions of this Act.

The Commissioner of Revenue shall have authority to promulgate such reasonable rules and regulations as are necessary for the enforcement of this Act, and to govern hearings provided in this Act to be held before him. Provided, however, he may delegate in writing to any regular employee of the Department of Revenue authority to perform any of the duties imposed on him by this Act excepting the promulgation of rules and regulations.

Any person, or representative thereof refusing to make any report as required by this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars ($50) or more than two hundred ($200), or imprisoned not less than thirty (30) days or more than six (6) months, or both so fined and imprisoned. The Department of Revenue shall also have authority, as herein provided, to require such reports, or the surrender of such property by civil action, including an action in the nature of a bill of discovery, in which case such person shall be required to pay a penalty equal to ten per cent (10%) of all amounts which he may ultimately be required to surrender, but in no event shall said penalty exceed five hundred dollars ($500).

Any person bona fide contesting the applicability of this Act to him may be relieved of the threat of any fine or penalty by posting a compliance bond in an amount and of surety sufficient to the court.

§ 21. All Acts and parts of Acts in conflict with this Act are, to the extent of such conflict, hereby repealed.

§ 22. It is the intent and purpose of the General Assembly of this Commonwealth of Kentucky to enact each and every provision of this Act separately, so that in the event the courts for any reason should hold any provision thereof void, or the application of any provision thereof void, then all other provisions or the application of any or all other provisions shall be deemed to remain in full force and effect; and it is hereby expressly declared that the General Assembly would have enacted any part or provisions of this Act, irrespective of any other part or provision thereof.

Mr. J. Lee Moore offered the following amendments to said bill, viz.:

1. Amend H. B. 321 on page 2, section 1, line 1 by striking out the first comma thereof and also the words, commas, and figures thereof as follows: "1612, 1613, 1614, 1615 and 1617"; and substituting in lieu thereof the term "to 1923 inclusive"

2. Amend H. B. 321 by adding a comma after the last word (the word die) in line 5 of section 3, page 2 of said act.

3. Amend H. B. 321 by striking the word "be" in line 2½ of section 6, page 4 of said Act.

4. Amend H. B. 321 by striking out line 11, section 7 page 5; and substituting in lieu thereof the following "the amount of the deposit during said period, such deposits and the interest thereon shall be"

5. Amend H. B. 321 by inserting the word "the" between the word "with" and the word "bank" in line 17 of section 7, page 5 of this Act.

6. Amend H. B. 321 by striking out the word "decendent" in line 12, section 11, page 8 of said act and substituting in lieu thereof the word "decedent"

7. Amend H. B. 321 by striking out the word "proceeding" in line 23, section 12, page 9 and substituting in lieu thereof the word "appeal"

8. Amend H. B. 321 by striking out the word "pussuant" in line 18, section 17, page 14 of said Act and substituting in lieu thereof the word "pursuant"

9. Amend H. B. 321 by striking out the word "hvae" in line 7 of Section 20, page 15 and substituting in lieu thereof the word "have"

10. Amend H. B. 321 on page 8, line 19 by adding the word "general" before the word "largest"

Said amendments were each and severally agreed to.

Mr. J. Lee Moore move the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Wm. T. Beard	J. F. Bosworth
J. Everett Bach	Alvis S. Bennett	W. S. Brim
H. T. Baker	Rell Bevins	Gus A. Brooks
G. M. Ballard	Sterling B. Blake	Randolph A. Brown
Robert E. Barry	Douglas T. Bolling	Haynes Carman

Charles M. Carter	J. B. Jarboe, Jr.	Lyman Roll
James W. Chapman	Chas. X. Jones	Jack Savage
S. B. Chrisman	John S. Juett	Carl Scheben
John Coulter	W. A. Lamkin, Jr.	Leon J. Shaikun
John H. Cox	Robert E. Lee	Ray O. Shehan
Pink G. Curd	Harvey D. Leonard	Faust Y. Simpson
W. Q. Daniel	Edward Leslie	Bruce Sloan
F. E. Daugherty	W. Paul Lyon	Otto Smither
Stanley S. Dickson	C. C. May	E. T. Sparks
Louis B. Dugan	T. B. McConnell	G. C. Springate
D. E. Edwards	Frank C. McElwain	J. Claude Stacy
Harry W. Ennis	E. Hayes McMakin	Ray J. Stengel
R. R. Ernst	Norris McPherson	Henry Stewart
Carlos Fallis	Stanley C. Moebus	W. St. Clair Stuart
T. P. Fitzpatrick	John B. Mollette	Otis C. Thomas
Cecil Florence	Davis Moore	Erna E. Tyra
Wayne Freeman	J. Lee Moore	J. Wood Vance
Eugene Gough	Joe T. Morgan	Walter R. Vansant
Van Y. Greene	C. Homer Neikirk	S. J. Wagner
Ralph C. Hamilton	Carl D. Perkins	Porter Wallace
C. L. Hammons	B. W. Porter	Harry F. Walters
T. H. Hickey	H. O. Porter	Henry Ward
Clyde S. Howard	Kleber F. Price	H. L. Waterfield
Chester Huffines	Hobart Rayburn	Otis White
John M. Hunnicutt	Thomas Rigdon	James H. Woods
W. H. Hunt	W. H. Riley	Mr. Speaker
R. L. Jackson	Joe E. Robinson	—95

Mr. J. Lee Moore offered the following amendments to the title of said bill, viz.:

Amend the title to H. B. 321 by striking out the word "presumtion" in line 2 of title and substituting therefor the word "presumption"

Amend the title to H. B. 321 by striking out the first comma in the 18th line of said title and also the word, commas and figures thereof as follows: "1612, 1613, 1614, 1615,

and 1617'' and substituting in lieu thereof the term ''to 1923 inclusive.''

Said amendments were each agreed to.

Resolved that the title thereof be as amended.

Mr. J. Lee Moore moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now recess until one-fifteen o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-fifteen o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Mollette moved that the privilege of the floor be extended to Mr. Carty of Salyersville, Kentucky.

Said motion was agreed to.

Mr. Lyon moved that privilege of the floor be extended to Mr. G. W. Huffman of Burkesville, Kentucky.

Said motion was agreed to.

Mr. J. Lee Moore moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. J. Lee Moore of the Committee on Appropriations No. 1.

H. Res. 31. Resolution for the payment to Hon. A. W. Leach, sheriff of Russell county, the sum of $73.47.

H. Res. 55. Resolution to pay Mrs. Lilliam P. Wells the perdiem of her late husband Adolph Wells

By Mr. Juett of tthe Committee on Publicity and Tourist Attractions.

H. B. 264. An Act to license the operation of oil wogans, selling or transporting petroleum, gasoline, lubricating or other oils etc.

With a Committee Amendment thereto by way of Substitute therefor.

H. B. 265. An Act to appropriate additional funds out of the General Expenditure fund to the Division of Publicity of the Department of Conservation.

With a Committee Amendment thereto by way of Substitute therefor.

By Mr. H. O. Porter of the Committee on Education No. 1.

H. B. 163. An Act authorizing independent school districts to annex county subdistricts or parts thereof.

Without an expression of opinion

By Mr. Fitzpatrick of the Committee on Alcoholic and Liquor Control No. 1.

H. B. 235. An Act relating to alcoholic beverages, re-

pealing, amending and re-enacting Sec. 75 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

H. B. 356. An Act relating to revenue and taxation and repealing and re-enacting Sec. 4214a-13, 4214a-15 and 4214a-17, Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

With the expression of opinion that said bills and resolutions ought to pass, with the exception of those specifically set out above.

Said bills and resolutions were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. J. Lee Moore of the Committee on Appropriations No. 1.

H. B. 24. An Act to repeal, amend and re-enact Sec. 2005-1, 2005-2 and 2005-3 of Carroll's Kentucky Statutes, providing for increase of compensation of the members of the General Assembly.

With the expression of opinion that said last named bill ought not to pass.

No motion having been made to advance said bill to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken on said bill it was ordered that said bill be not read the first time at length and so said bill was rejected.

Mr. Joe E. Robinson moved that the Rules of the House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 209. An Act to establish a Kentucky Farm Ten-

ancy Commission; to define its work; to provide for its conduct and expenses; and for other purposes.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

WHEREAS, more than a third of Kentucky farm families are tenants or croppers; and,

WHEREAS, such tenancy appears to be increasing for the state and nation; and,

WHEREAS, soil erosion and exhaustion, low income and poverty, low health standards, illiteracy, decadence of the rural church and of the social life of the community usually follows; and,

WHEREAS, thoughtful and capable citizens, including landlords and farm tenants, have expressed their belief that such problems should be studied and means sought for their solution; and,

WHEREAS, it is vital to the long-time welfare of the farm people, rural communities, and the state and nation, that ability, thrift, and the other necessary characteristics incident to attaining land ownership and improving tenancy be recognized; now, therefore

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby established a Kentucky Farm Tenancy Commission, to be composed of nine (9) members appointed by the Governor, one of whom shall be a bona fide resident of each congressional district. The members of the Commission shall receive no compensation for their services, but from the appropriation of one thousand dollars ($1,000)

for each fiscal year provided in the General Appropriation Bill, shall be reimbursed for necessary travel expenses incident to attendance of meetings of the Commission. Included in the membership shall be three (3) farm-owners, three (3) tennants, and three (3) other persons. At least one (1) of the last three (3) shall be a land-owner who has formerly been a tenant. The Governor shall designate one (1) member as Chairman and another as Vice-Chairman.

§ 2. It shall be the duty of the Farm Tenancy Commission to investigate the entire problem of farm tenancy in Kentucky, with a view to encouraging home ownership; improving landlord-tenant relationships; considering recommendations to Congress with respect to the Bankhead-Jones Farm Tenant Act, or any other matter which members of the Commission may deem pertinent; and make such other general studies as bear on the farm tenancy problem. The Commission shall meet on call by the Chairman, or by a majority of its own membership.

§ 3. To facilitate the farm tenancy investigation, the Commission is hereby authorized to seek the co-operation of such federal, state, and private agencies as may be possessed of data bearing on the agricultural land tenure problem, including the Farm Credit Administration, the Farm Security Administration, and the Bureau of Agricultural Economics of the United States Department of Agriculture; the College of Agriculture, Extension Service, and Experiment Station of the University of Kentucky; the Departments of Agriculture of other Kentucky colleges; the Kentucky State Department of Agriculture; and the Kentucky State Division of Vocational Education. These various state agencies are hereby authorized to co-operate as fully as their resources permit with the said Farm Tenancy Commission.

The Commission is authorized to select agents to represent it in aiding or promoting the interest of this Commonwealth in matters having to do with farm land tenure or with

the benefiting or protecting of the interests of agricultural land-owners and tenants in Kentucky, and recommend to the Governor such policies as may be beneficial to agriculture generally, The Commission shall have the service of the Research Director of the Legislative Council in formulating its report, and of the State Department of Agriculture in supplying stenographic, statistical, or clerical workers. Expenses of meetings and any other expenditures authorized by the Chairman of the Commission for the purposes herein set out shall be paid from the appropriation heretofore made on requisition of the Chairman, which the Commissioner of Agriculture, Labor, and Statistics shall countersign prior to disbursement, through the Department of Finance, as other disbursements are made. Any funds made available by agencies other than the state shall be paid to the Governor to be expended for research work that the Research Director of the Legislative Council may undertake pursuant to farm studies.

§ 4. The report of the Farm Tenancy Commission to the Governor and the 1942 General Assembly shall be placed in the hands of the Governor and of the Legislative Council on or before October 1, 1941. The Commission may authorize publication of a summary or of other information bearing on its work.

Mr. Joe E. Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 209 on page 2, section 2, line 1 by striking out the word "Cimmission" and inserting in lieu therefor the word "Commission"

2. Amend H. B. 209 on page 3, section 3, line 19 by adding after the word "Council" and before the word "in" the following: "or other person or agency designated by the Governor"

3. Amend H. B. 209 on page 3, section 3, line 29 by add-

ing, after word "Council" and before the word "may" the following: "or other person or agency designated by the Governor"

Said amendments were each and severally agreed to.

Mr. Joe E. Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Charles M. Carter	Carlos Fallis
J. Everett Bach	James W. Chapman	Cecil Florence
H. T. Baker	S. B. Chrisman	Wayne Freeman
G. M. Ballard	John Coulter	Eugene Gough
Robert E. Barry	John H. Cox	Van Y. Greene
Wm. T. Beard	Pink G. Curd	Ralph C. Hamilton
Alvis S. Bennett	W. Q. Daniel	C. L. Hammons
Sterling B. Blake	F. E. Daugherty	T. H. Hickey
Douglas T. Bolling	Stanley S. Dickson	Clyde S. Howard
J. F. Bosworth	Louis B. Dugan	Chester Huffines
W. S. Brim	Forest C. Easley	John M. Hunnicutt
Gus A. Brooks	D. E. Edwards	W. H. Hunt
Randolph A. Brown	Harry W. Ennis	R. L. Jackson
Haynes Carman	R. R. Ernst	Chas. X. Jones

John S. Juett	B. W. Porter	J. Claude Stacy
William K. King	H. O. Porter	Ray J. Stengel
W. A. Lamkin, Jr.	Kleber F. Price	Henry Stewart
Robert E. Lee	Hobart Rayburn	W. St. Clair Stuart
Harvey D. Leonard	Thomas Rigdon	T. M. Swope
Edward Leslie	W. H. Riley	Otis C. Thomas
W. Paul Lyon	Joe E. Robinson	Erna E. Tyra
C. C. May	Lyman Roll	J. Wood Vance
T. B. McConnell	Jack Savage	Walter R. Vansant
Frank C. McElwain	Carl Scheben	S. J. Wagner
E. Hayes McMakin	Leon J. Shaikun	Porter Wallace
Norris McPherson	Ray O. Shehan	Harry F. Walters
John B. Mollette	Faust Y. Simpson	Henry Ward
Davis Moore	Bruce Sloan	H. L. Waterfield
J. Lee Moore	Otto Smither	Otis White
Joe T. Morgan	E. T. Sparks	James H. Woods
Carl D. Perkins	G. C. Springate	—92

Resolved that the title thereof be as aforesaid.

Mr. Joe E. Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Scheben moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 13. An Act to permit separation of jurors before submission of criminal cases, punishable by death or life imprisonment.

Thereupon all other business was suspended, said bill was read at length and compared and in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The hour of two o'clock P. M. having arrived, that being the hour for the Special Orders of the Day, to-wit: House Bills Nos. 210, 211 and 212, the House took up for consideration said bills in the order named, viz.:

H. B. 210. AN ACT repealing and re-enacting Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding officers in primary elections, and confining to bona fide candidates the written notice and designation of election officers, with procedure to determine same and providing penalties for wrongful interference with procedure.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, be and it is hereby repealed and

re-enacted so that same when re-enacted shall read as follows, to-wit:—

Section 1550-22. Officers of election for the primary shall be appointed by the county board of election commissioners as provided by law in the case of the November elections: Provided, That the lists of names selected by the several party committees shall be submitted to said board not less than fifteen days before the holding of the primary and shall be open to inspection thereafter; and provided, that bona fide candidates before the primary shall be entitled, if they so desire, to unite regardless of party, in designating the names of persons to be appointed officers of election, under the rules hereinafter laid down. All designations of persons selected by said bona fide candidates for appointment shall be made by written notice to said board, delivered to any member thereof, not later than twenty days before said primary. Any group of twenty-five per cent, (25%) of all such candidates before the primary shall be entitled to have appointed as an election officer one person in each precinct for which a name is so submitted. In cases where names are so designated for several precincts, the persons so designated shall be appointed in equal proportion to the offices of clerk, sheriff and judge in the different precincts. In like manner, fifty per cent. (50%) of all such candidates before the primary shall be entitled to designate two persons to be appointed officers of election in each precinct. In such cases one of the persons so designated shall be appointed clerk of the election in one-half of the precincts for which names are so designated. If seventy-five per cent. (75%) of all such candidates so unite they shall be entitled to designate three persons to be appointed officers of election in each precinct, and one of the persons so designated shall be appointed clerk of election in each of three-fourths of all precincts for which names are so designated; and all such candidates by so uniting shall be entitled to the appointment of four officers of election in each precinct for which names are thus designated.

In cases where such candidates unite in the selection of persons to be appointed officers of election, as herein provided, the lists of names submitted by the party committees shall be treated by the board of election commissioners as follows: If only one group of twenty-five per cent (25%) of such candidates unite in selecting one person to be appointed an officer of election in each precinct so designated, said board shall appoint only one officer of election for such precinct or precincts from the list submitted by the committee of that party whose candidates form a majority of the signers of such written designation. If the signers of such list are divided equally between the parties, then the lists of names submitted by each party committee shall have chosen from it only one name for an officer of election in every other precinct among those for which names are thus designated. If two groups of twenty-five per cent. (25%) or one group of fifty per cent. (50%) of all such candidates so unite in designating persons to be appointed officers of election in one or more precincts, the remaining officers in such precincts, shall be selected equally from the lists of the several party committees. In the event that seventy-five per cent. (75%) of all such candidates unite to procure the appointment of election officers in one or more precincts, or if three groups of twenty-five per cent. (25%) of the candidates, or one group of fifty per cent. (50%) and another of twenty-five per cent. (25%) of such candidates submit names under the provisions of this section, the remaining officer of election in each of such precincts shall be chosen alternately from the lists of the different party committees.

All persons who are to act as election officers shall be appointed by said board in accordance with the foregoing provisions, and the list of officers of election with the office to which each person is appointed shall be made up and open to inspection by any candidate, not later than the noon on the Saturday preceeding the day of the primary.

The duties herein provided shall be enforceable against said county board of election commissioners, on the petition of

any candidate, by the writ of mandamus. Proceedings in such cases shall be instituted in the circuit court. The proceedings shall be summary and without delay, and the orders of the court shall be final and not appealable.

A "bonda fide" candidate in this Act means one who is seeking nomination according to law, who honestly seeks the office for which he announces, who expects to make a campaign for the office and who is not supported by any group or faction who through the support of this candidate seeks to promote the welfare of another.

Any candidate or member of the County Election Commission may question the bona fides or good faith of any candidate by summary proceedings consisting of a motion before the Circuit Court if in session, or Circuit Judge in vacation, of the district in which the county is located, upon three days' notice to the candidate whose good faith is questioned, which motion shall be tried summarily and without delay before said Court or Judge, and a hearing before said Judge shall be considered a special term for said purpose, and the proof may be heard orally and upon motion of either party may be officially reported; and in any action or proceeding to compel the County Election Commission to appoint election officers in accordance with any designation made by a group, or groups, of candidates as provided in this Act, the Circuit Judge presiding is hereby authorized and empowered to ascertain and determine whether any candidate whose name appears on a list of candidates for the purpose of designating election officers is a bona fide candidate.

In any action or proceeding authorized herein the burden of proof as to the bona fides of a candidate shall be on the party asserting or claiming such bona fides.

If the Court finds the candidate is not a bona fide candidate it must so order and certify same to the election commission and said candidate's name shall be stricken from the written notice and designation of election officers filed with

said Commission as herein provided and not counted in the percentage provisions required herein, or may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and subject to a motion to set aside same in the Court of Appeals, which shall be heard by said Court or a Judge thereof as is provided by law for dissolving or granting injunctions, except that said motion must be made before said Court or Judge of the Court of Appeals within five days after the entry of the order in the Circuit Court and can be heard and tried upon the original papers and the order of the Appellate Court or Judge thereof shall be final.

If any candidate or person approach the Circuit Court or a Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him he shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty ($20.00) Dollars nor more than five hundred ($500.00) dollars, or imprisoned in the county jail not less than one nor more than six months, or both fined and imprisoned in the discretion of the Judge or jury trying the same, and may also be proceeded against for contempt.

Mr. Joe E. Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 210 on page 1, line 8 by striking out the word "fifteen" and inserting in lieu therefor the word "twenty"

2. Amend H. B. 210 on page 2, line 15 by striking out the word "twenty" and inserting in lieu therefor the word "fifteen"

3. Amend H. B. 210 on page 4, line 91 by striking out the word "party" and inserting in lieu therefor the word "person"

4. Amend H. B. 210 on page 4, line 89 by inserting after the period following the word "candidate" the following

words: "In any county having more than two circuit judges the motion shall be made to and tried by a majority of the circuit judges is required to render a decision."

Said amendments were each and severally agreed to.

Mr. Scheben moved that said bill be laid on the table.

Said motion was disagreed to.

Mr. Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Haynes Carman	Cecil Florence
J. Everett Bach	James W. Chapman	Wayne Freeman
Robert E. Barry	John Coulter	Eugene Gough
Wm. T. Beard	Pink G. Curd	Van Y. Greene
Rell Bevins	F. E. Daugherty	Ralph C. Hamilton
Sterling B. Blake	Stanley S. Dickson	Chester Huffines
Douglas T. Bolling	Louis B. Dugan	John M. Hunnicutt
W. S. Brim	D. E. Edwards	R. L. Jackson
Gus A. Brooks	Harry W. Ennis	J. B. Jarboe, Jr.
Randolph A. Brown	T. P. Fitzpatrick	Chas. X. Jones

John S. Juett	Kleber F. Price	T. M. Swope
Harvey D. Leonard	Thomas Rigdon	J. Wood Vance
Edward Leslie	Joe E. Robinson	Walter R. Vansant
Paul W. Lyon	Lyman Roll	S. J. Wagner
Frank C. McElwain	Carl Scheben	Porter Wallace
E. Hayes McMakin	Leon J. Shaikun	Harry F. Walters
Norris McPherson	Faust Y. Simpson	Henry Ward
Davis Moore	G. C. Springate	H. L. Waterfield
J. Lee Moore	J. Claude Stacy	Otis White
Carl D. Perkins	Ray J. Stengel	James H. Woods
B. W. Porter	Henry Stewart	
H. O. Porter	W. St. Clair Stuart	—64

Those who voted in the negative were—

G. M. Ballard	R. R. Ernst	Jack Savage
Alvis S. Bennett	Robert E. Lee	Ray O. Shehan
J. F. Bosworth	T. B. McConnell	E. T. Sparks
S. B. Chrisman	John B. Mollette	Erna E. Tyra
John H. Cox	Hobart Rayburn	
W. Q. Daniel	W. H. Riley	—16

Resolved that the title thereof be as aforesaid.

Mr. Joe E. Robinson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. B. 211. AN ACT repealing and re-enacting Section 1550-6 Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, governing nominating papers, and their filing in a primary election, and further providing for penalties for false swearing in the notification and declaration and supporting affidavits.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1550-6, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, be and the same is hereby repealed and re-enacted so that same when re-enacted shall read as follows, to-wit:—

Section 1550-6. Any qualified elector who is a member of a party within the meaning of this Act, and who has affiliated with and supported the nominees of the party at whose hands he seeks the nomination, as defined elsewhere in this Act, shall have his name printed on the official ballot of his party for an office to which he is eligible in any primary held under the provisions of this Act, upon filing with proper officer at proper time, a notification and declaration, which notification and declaration, shall be in the following form, and shall be filled in as to all the requirements therein contained, and the declaration therein shall be subscribed and sworn to by the person making same, before any officer qualified to administer an oath.

Said notification and declaration shall be in the following form:

Notification and Declaration

Of ..... for nomination to the office ..... to ..... (county court clerk or secretary of state, as case may be). Commonwealth of Kentucky ..... County. For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the .... (name of party) party, I ..... (name in full as desired on the ballot) do solemnly swear (or affirm), that I reside at No. ..... street, in the city of ..... state of Kentucky, and that I am a registered .....

(party) voter in ..... precinct, city of ..... that I believe in the principles of said ..... (name of party) party, and intend to support its principles and policies, and vote for its nominees at the coming general election, and that I have affiliated with such party and that I supported its nominees at the last general election, or was prevented from doing so by reason of ..... (state reason here); that if nominated as a candidate of said ..... at the said ensuing election, I will accept such nomination and not withdraw; that I will not knowingly violate any election law or any law defining or relating to corrupt and fraudulent practice in campaigns or elections in this State, and if finally elected, I will qualify for said office.

I further solemnly swear (or affirm) that I am a bona fide candidate for said nomination and I am honestly seeking the office for which this notice and declaration is filed, and that I expect to make a campaign for said nomination, and am not running in the interest of any other candidate, group or faction or to promote any interest other than my own.

..... (Signature of candidate.)

Subscribed and sworn to before me by .....
this ..... day of ....., 19.....
..... (Signature of officer.) .....
..... (Title of officer.)

The said candidate shall at the time of filing his notification and declaration file therewith an affidavit of two reputable electors, members of the same party to which the applicant belongs, which affidavit shall be in the following form, and filled out so as to meet all the requirements indicated therein:

Commonwealth of Kentucky, ...
County

"We, ... and ....., do solemnly swear (or affirm), that we are qualified electors and members of the ..... (name of party), and have affiliated with said party, and supported its nominees at the last general election; that we are residents and legal voters of the city of ....., county of ..... State of Kentucky; that we are personally acquainted with ..... who files the hereto attached notification and declaration, and we know him to be a discreet citizen, and a member of the .... party, and that to the best of our knowledge and belief, he has affiliated with and supported said party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration, and we believe him to be qualified to fill the office of .....; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than his own.

.....

.....

(Signature of Affiants)

Subscribed and sworn to before me by ..... and ..... this ..... day of ..... 19 ....

(Signature of officer.)

.....

(Title of officer.)

Said application and declaration, and the accompanying affidavits may be on the same or separate sheets, but shall be filed together and at the same time, when so filed with the proper officer, it shall be the duty of said officer, upon the candidate's compliance with the requirements of this Act as to payment of fees as elsewhere provided, to have printed

the applicant's name on the ballot, according to the primary election law, under the penalties provided therein.

No applicant or candidate for any public office in the State of Kentucky who shall have filed his application or declaration under said section and who shall have been defeated for the nomination for any office thereunder, shall be eligible or permitted to run for the same office for which he was a candidate under said section at any general election in this state to be held during the same year in which his said application and declaration was so filed and in which he was a candidate in any primary election under said Act.

Provided, that the provisions of Section 1550-6 of this Act shall not apply to candidates for judge of the court of appeals and for judges of the circuit court.

For such judicial positions any eligible person may become or be proposed as a candidate for nomination by any and every political party having a ticket to be voted for in the district for which the said office is to be filled, but said persons shall not be required to seek the said nomination or nominations nor to make a declaration of party loyalty or support, and as a requirement for such nomination shall not be required to have registered as affiliated with any political party or parties, or to have registered at all as a voter.

Such nomination or nominations may be proposed for such eligible candidate either by resolution of the proper committee, or by the application to two reputable electors, of any political party whose nomination is sought. Such resolution or application shall be filed with the proper officer at the proper time, as provided by law for other nomination papers. The name of no candidate shall be placed upon the ballot if, before the preparation of the ballots, such proposed candidate shall file with the officer with whom the nomination papers were filed, an objection thereto in writing, signed and sworn to by such proposed candidate.

The names of the successful candidates in the primary for

nomination or nominations for such judicial offices shall appear on the ballot at the regular election under the device of as many political parties as may have nominated such candidate. He may appear thereon by petition of voters, or otherwise as may be required by law, and at such election shall be entitled to the total of the votes which he receives on such ballot or ballots as aforesaid.

Before any successful candidates for such judicial nomination or nominations shall be given his certificate or certificates of nomination, he shall file with the clerk of the county court, in which he resides, a statement that during the campaign for the said nomination or nominations he did not, and while a candidate for the said office will not knowingly violate any election law or any law defining or relating to corrupt and fraudulent practice in campaigns or elections in this state, and if elected will qualify for said office.

Provided, that nothing in this law shall prevent any party from offering a candidate for election under such party's device, if the governing authorities of such party in the district affected so order.

Any person who shall wilfully make a false statement in the notification and declaration or supporting affidavits provided for herein shall be guilty of false swearing and upon conviction confined in the penitentiary from one to five years.

Mr. Joe E. Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 211 on page 1, section 1, line 9 by striking out the words "proper officer at" and insert in lieu therefor the words "the proper officer at the"

2. Amend H. B. 211 on page 1, section 1, line 11 by striking out the comma following the word "declaration"

3. Amend H. B. 211 on page 3, section 1, line 44 by striking out the words "my own" and substituting in lieu therefor the words "that of the public"

4. Amend H. B. 211 on page 3, section 1, line 71 by striking out the word "iterest" and inserting in lieu therefor the word "interest"

5. Amend H. B. 211 on page 4, line 72 by striking out the words "his own" and substituting in lieu therefor the words "that of the public"

6. Amend H. B. 211 on page 4, line 85 by inserting the following word "and" after the word "time"

7. Amend H. B. 211 on page 4, section 1, lines 90 to 97 by striking out the entire paragraph beginning with the word "No" in line 90 and closing with the word "Act" in line 97.

8. Amend H. B. 211 on page 4, section 1, line 98 by striking out the words "provisions of section 1550-6 of this Act" and insert in lieu thereof the words "preceding provisions of this section"

9. Amend H. B. 211 on page 5, section 1, line 125 by striking out the word "candidates" and inserting in lieu therefor the word "candidate"

Said amendments were each and severally agreed to.

Mr. Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. P. Fitzpatrick	C. Homer Neikirk
J. Everett Bach	Wayne Freeman	Carl D. Perkins
G. M. Ballard	Eugene Gough	B. W. Porter
Robert E. Barry	Van Y. Greene	H. O. Porter
Wm. T. Beard	Ralph C. Hamilton	Kleber F. Price
Alvis S. Bennett	C. L. Hammons	Thomas Rigdon
Rell Bevins	T. H. Hickey	Joe E. Robinson
Sterling B. Blake	Clyde S. Howard	Carl Scheben
Douglas T. Bolling	Chester Huffines	Leon J. Shaikun
J. F. Bosworth	John M. Hunnicutt	Faust Y. Simpson
W. S. Brim	W. H. Hunt	Otto Smither
Gus A. Brooks	R. L. Jackson	J. Claude Stacy
Randolph A. Brown	J. B. Jarboe, Jr.	Ray J. Stengel
Haynes Carman	Chas. X. Jones	Henry Stewart
Charles M. Carter	John S. Juett	W. St. Clair Stuart
James W. Chapman	W. A. Lamkin, Jr.	T. M. Swope
S. B. Chrisman	Harvey D. Leonard	Erna E. Tyra
John Coulter	Edward Leslie	J. Wood Vance
John H. Cox	W. Paul Lyon	Walter R. Vansant
Pink G. Curd	C. C. May	S. J. Wagner
W. Q. Daniel	Frank C. McElwain	Porter Wallace
F. E. Daugherty	Norris McPherson	Harry F. Walters
Stanley S. Dickson	Stanley C. Moebus	Henry Ward
Louis B. Dugan	Davis Moore	H. L. Waterfield
D. E. Edwards	J. Lee Moore	James H. Woods
Harry W. Ennis	Joe T. Morgan	—76

Those who voted in the negative were—

Ray O. Shehan	E. T. Sparks	—2

Resolved that the title thereof be as aforesaid.

Mr. Joe E. Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration

H. B. 212. An Act repealing and re-enacting Sec. 1550-23 Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding the appointment of challengers and inspectors in primary elections.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1550-23, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, be and it is hereby repealed and re-enacted so that same when re-enacted shall read as follows: to-wit:—

§ 1550-23. Each political party shall be entitled to have not exceeding two challengers and two inspectors at each precinct during the holding of said primary election, same to be appointed and to serve under the following conditions:

Any group of bona fide candidates as defined and determined in the preceding section (§1550-22) of the same political party equal to twenty-five per cent. (25%) of all the candidates for such party to be voted for in a county "including state, district and all other candidates) in any primary may recommend to the county committee or governing authority of such party for the county a list of persons whom they desire to have appointed as challengers and inspectors in each precinct in such county. If more than two such lists are furnished said committee or governing authority as herein provided, said committee or governing authority shall in making appointments of challengers and inspectors so alternate between the several lists so furnished as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one challenger and one inspector for any precinct from any one list. The list of

challengers and inspectors herein provided shall be presented to the chairman or secretary of the party committee of the county not less than seven days before the date on which the primary is to be held; and said committee or the chairman thereof shall make the appointments and certify to same at least four days before the date on which said primary is held. Said appointment of challengers and inspectors shall be certified in all respects as challengers and inspectors at regular elections, except as otherwise herein provided, and said challenger and inspector shall be subject to the same penalties and possess the same rights and privileges as challengers and inspectors, at general elections: provided, that the challengers of one political party shall not be entitled to challenge those persons who offer to vote for candidates of any other party in such primary; and the inspectors of one political party shall not be permitted to examine or inspect the ballots or returns of any other political party than the one for which he was appointed. The provisions of this section shall be enforceable against the chairman of the political party committees in the same manner as provided in the last preceding section of this act.

Mr. Joe E. Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 212 on page 1, line 5 by striking out in line 5 after the word "challengers" and before the word "at", the words "and two inspectors"

2. Amend H. B. 212 by striking out the word "and" on page 2, line 30, and "inspectors" on page 2, line 31 after the word "challengers" in line 30 and before the word "at" in line 31.

3. Amend H. B. 212 by striking out the following: "and inspector" on page 2, line 29 after the word "challenger" and before the word "shall"

4. Amend H. B. 212 by striking out the following: "and

inspectors'' on page 2, line 28, after the word ''challengers'' in lines 27 and 28 and before the word ''at'' in line 28.

5. Amend H. B. 212 by striking out the following: ''and inspectors'' on page 2, line 27 after the word ''challengers'' and before the word ''shall''

6. Amend H. B. 212 by striking out the following: ''and inspectors'' on page 2 in line 21 after the word ''challengers'' and before the word ''herein'' on lines 21 and 22.

7. Amend H. B. 212 by striking out the following: ''and one inspector'' in line 20 on page 2 after the word ''challengers'' and before the word ''for''

8. Amend H. B. 212 by striking out the following: ''and inspectors'' in line 17 on page 2 after the word ''challengers'' and before the word ''so''

9. Amend H. B. 212 by striking out the following ''and inspectors'' in line 14 on page 2, after the word ''challengers'' and before the word ''in''

10. Amend H. B. 212 on page 2 by striking out the words beginning with the word ''primary'' in line 33 and ending with the word ''appointed,'' in line 36, and substituting in lieu therefor the word ''primary''

Said amendments were each and severally agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the said being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Cecil Florence	Carl D. Perkins
J. Everett Bach	Wayne Freeman	B. W. Porter
Wm. T. Beard	Eugene Gough	H. O. Porter
Alvis S. Bennett	Van Y. Greene	Kleber F. Price
Rell Bevins	Ralph C. Hamilton	Joe E. Robinson
Sterling B. Blake	C. L. Hammons	Lyman Roll
Douglas T. Bolling	T. H. Hickey	Carl Scheben
J. F. Bosworth	Clyde S. Howard	Leon J. Shaikun
W. S. Brim	Chester Huffines	Faust Y. Simpson
C. J. Bronston	John M. Hunnicutt	Otto Smither
Gus A. Brooks	W. H. Hunt	Ray J. Stengel
Randolph A. Brown	R. L. Jackson	Henry Stewart
Haynes Carman	J. B. Jarboe, Jr.	W. St. Clair Stuart
Charles M. Carter	Chas. X. Jones	T. M. Swope
James W. Chapman	John S. Juett	Otis C. Thomas
S. B. Chrisman	Harvey D. Leonard	Erna E. Tyra
John Coulter	Edward Leslie	J. Wood Vance
John H. Cox	Paul W. Lyon	Walter R. Vansant
Pink G. Curd	C. C. May	S. J. Wagner
F. E. Daugherty	Frank C. McElwain	Porter Wallace
Stanley S. Dickson	E. Hayes McMakin	Harry F. Walters
Louis B. Dugan	Norris McPherson	Henry Ward
Harry W. Ennis	Stanley C. Moebus	H. L. Waterfield
T. P. Fitzpatrick	Davis Moore	James H. Woods

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Mr. Joe E. Robinson offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 212 on page 1, line 3 by striking out the words "and inspectors"

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Joe E. Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Clerk's desk a bill entitled:

H. B. 2. An Act to amend and re-enact Chapter 65 of the General Assembly of 1932, and to change and fix the time of terms of court in the tenth Judicial District.

With Amendments thereto as proposed and adopted by the Senate,

Which was reported to this House from the Senate on yesterday.

(For bill see House Journal of January 22)

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

1. Amend H. B. 2 in Senate as follows: on page 2, section 2, line 2 by adding the following:

"Due to the fact that the terms of several courts mentioned herein are entirely too short to take care of the cases pending in the courts, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor"

2. Amend H. B. 2 in Senate by striking out lines 1 and 2 of the printed bill and substituting in lieu therefor:

"Section 1. That Section 965-10, Carroll's Kentucky

Statutes, 1936 Edition, be and the same is amended and re-enacted and as amended and re-enacted shall read as follows;"

3. Amend the title to H. B. 2 in Senate by striking out from lines 1 and 2 of the title the following words: "Chapter 65, Acts of the General Assembly of 1932" and substituting in lieu therefor the following: "Section 965-10, Carroll's Kentucky Statutes, 1936 Edition."

4. Amend the title to H. B. 2 in Senate by changing the period (.) after the word "district" to a comma (,) and adding the words "and declaring an emergency"

Amendments Nos. 1 and 2 as proposed and adopted by the Senate were then concurred in.

Said bill was then passed as amended.

The yeas and neys being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Louis B. Dugan	W. H. Hunt
J. Everett Bach	Forest C. Easley	R. L. Jackson
Wm. T. Beard	D. E. Edwards	J. B. Jarboe, Jr.
Alvis S. Bennett	Harry W. Ennis	Chas. X. Jones
Rell Bevins	R. R. Ernst	John S. Juett
Sterling B. Blake	Carlos Fallis	William K. King
W. S. Brim	T. P. Fitzpatrick	W. A. Lamkin, Jr.
Gus A. Brooks	Cecil Florence	Harvey D. Leonard
Randolph A. Brown	Wayne Freeman	Edward Leslie
Haynes Carman	Eugene Gough	Paul W. Lyon
Charles M. Carter	Van Y. Greene	C. C. May
John Coulter	Ralph C. Hamilton	T. B. McConnell
John H. Cox	C. L. Hammons	Frank C. McElwain
Pink G. Curd	T. H. Hickey	Norris McPherson
W. Q. Daniel	Clyde S. Howard	Stanley C. Moebus
F. E. Daugherty	Chester Huffines	John B. Mollette
Stanley S. Dickson	John M. Hunnicutt	Davis Moore

J. Lee Moore	Jack Savage	Otis C. Thomas
Joe T. Morgan	Carl Scheben	Erna E. Tyra
C. Homer Neikirk	Ray O. Shehan	J. Wood Vance
Carl D. Perkins	Faust Y. Simpson	Walter R. Vansant
B. W. Porter	Bruce Sloan	S. J. Wagner
H. O. Porter	Otto Smither	Porter Wallace
Kleber F. Price	G. C. Springate	Harry F. Walters
Hobart Rayburn	J. Claude Stacy	Henry Ward
Thomas Rigdon	Ray J. Stengel	H. L. Waterfield
W. H. Riley	Henry Stewart	James H. Woods
Joe E. Robinson	W. St. Clair Stuart	
Lyman Roll	T. M. Swope	—85

The amendments to the title as proposed and adopted by the Senate, were then concurred in.

Mr. Vance moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

The following bills and resolutions were introduced, viz.:

By Mr. Robinson

H. B. 390. An Act conferring upon cities or municipal corporations in the Commonwealth of Kentucky the right and power, in the exercise of a governmental function, to use and employ their machinery and apparatus for the extinguishment of fires at any point in the same County in which such city or municipal corporation may be located or within a smaller territory within such County, as may be fixed by the legislative body of such city; providing for such terms and regulations for such use of said apparatus as said cites may prescribe; and releasing such cities, their officers, agents, servants and em-

ployees from any liability arising from the use and employment of such apparatus and machinery as herein provided.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, in many Counties in the Commonwealth of Kentucky, there is a large amount of valuable property situated outside of the corporate limits of various cities and towns which could be saved from destruction by fire by the use and employment of apparatus and machinery owned or controlled by such towns kept and employed for the extinguishment of fires; and WHEREAS, under present laws, such cities or municipalities are prohibited from the use of such apparatus for extinguishment of any fire outside of their corporate limits;

Therefore, in the exercise of its governmental functions, any municipality or city or town in the Commonwealth of Kentucky owning or having under its control any apparatus or machinery designed for the extinguishment of fires, may operate and conduct such apparatus or machinery into any point in any County in the Commonwealth of Kentucky in which such city or municipality may be located, or into a smaller territory in such County as may be determined by the legislative body of such city, and may use and employ such aparatus or machinery in the extinguishment of any fire within such defined territory; and provided further, that such apparatus or machinery shall be so used and conducted only in conformity to such reasonable terms and regulations which any such city or municipality may prescribe; and further, neither such city nor its officer, agents, servants or employees shall be liable in any manner whatever on account of such use or employment of such machinery or apparatus at any point in any such County outside of the corporate limits of such city or municipality; and such use of such machinery or

apparatus shall be deemed to be employment and use thereof in the exercise of a governmental function of such city or municipality.

By Stanley C. Moebus

H. B. 391. AN ACT to provide for civil service and pensions for county police in counties containing cities of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The judge of the county court in any county containing a city of the second class may in his discretion, by an order entered on the order book of the county court of said county, waive his jurisdiction to divide such county into districts as now provided by Sec. 3780 Carroll's Kentucky Statutes, and may waive his jurisdiction to appoint county patrolmen as provided in Sec. 3781 of said statutes, and by said order provide that thereafter said county shall be divided into such districts and such patrolmen appointed by a civil service commission as hereinafter provided. When such order has been entered and said commission established the county police of said county shall thereafter be appointed and continued in office according to the provisions of this Act. The appointment and continuance in office of the county police of said county under the civil service laws established hereby shall not thereafter be set aside or discontinued, so long as county police are appointed for said county.

§ 2. As used in this Act, unless the context requires otherwise:

(1) "County" means a county containing a city of the second class.

(2) Police or policemen means any person referred to in Sections 3780 to 3786, inclusive, Carroll's Kentucky

Statutes as patrolman or patrol. Policemen appointed by virtue of this Act shall be vested with all the powers and duties set forth in said sections.

(3) "Commission" means the civil service commission.

§ 3. (1) Upon entering the order referred to in Section 1 of this Act the judge of such county court shall create a civil service commission, consisting of three persons appointed by such judge. The original members shall be appointed one for a term of one year, one for a term of two years and one for a term of three years. Thereafter the term of the members shall be for three years and until their successors are appointed and qualify. Vacancies shall be filled by appointment for the unexpired term. The member originally appointed for three years shall be secretary, and on the expiration of his term the commission shall choose one of its members as secretary. Each member of the commission shall receive a salary in an amount not to exceed Three Hundred Dollars $300.00) per annum to be fixed by the judge of the county court and paid out of the county levy.

(2) Not more than two members of the commission shall be adherents of the same political party. No person shall be appointed a member who is under thirty years of age or related by blood or marriage to the county judge.

§ 4. Upon entering the order referred to in Section 1 of this Act the judge of the county court may establish a county police force, and provide that there shall be a chief thereof and subordinate officers of such rank as he may determine expedient, not inconsistent with the provisions of Sections 3780 to 3786 of Carroll's Kentucky Statutes, as said laws now exist or may be amended.

§ 5. The commission shall promulgate and enforce rules, consistent with this Act and the order of the county court, to carry out the provisions of this Act and said order.

All rules so promulgated shall not be in force until approved by the county court.

§ 6. Except as provided by Section 9 of this Act no person shall be eligible for appointment as a county policeman unless he is:

(1) At least twenty-five years of age and under forty-five years of age,

(2) A registered voter in the county,

(3) Known to be a person of sobriety and integrity,

(4) A law-abiding citizen, and

(5) Able to read, write and understand the English language.

§ 7. (1) The commission shall examine all applicants for appointment as county policemen within the grades of rank designated by the county court as to their physical and mental qualifications for the grade of rank of appointment applied for. The examinations shall include such subjects as the commission prescribes and as are commensurate with such appointment. Separate examinations shall be held for each grade of rank.

(2) Examinations shall be held at such times and places as the commission deems proper. Notice containing the pertinent details shall be given at least ten days in advance of each examination by publication in a newspaper of general circulation in the county.

(3) The applicants shall be graded according to the results of the examination. Any applicant who served in the Army, Navy or hospital service of the United States in the World War and who was honorably discharged shall be entitled to a five per cent increase in his examination grade.

(4) As soon after each examination as is practicable the commission shall certify to the county judge a list of the applicants so examined, graded according to the result of the examination in the order of the grades, with the highest grade first.

§ 8. (1) The county judge shall appoint county policemen from the lists certified to him by the commission by the selection of one of the three holding the highest grades in the examination for the rank for which thte examination was held.

(2) If there are urgent reasons for filling a vacancy in the county police force, or any rank or grade thereof, and the commission is unable to certify a list of as many as three persons eligible for appointment after a competitive examination, the county judge may nominate a person to the commission for non-competitive examination, and if the nominee is certified by the commission as qualified after the examination he may be appointed provisionally to fill the vacancy until a regular appointment can be made from an eligible list prepared by the commission after a competitive examination, which list shall be prepared within ninety days thereafter.

(3) In an emergency an appointment may be made by the county judge without regard to the rules of this Act, but not to continue longer than sixty days, and in no case shall successive appointments be made. Temporary appointments made necessary by disability of regular policemen shall continue only during the period of disability.

§ 9. County patrolmen who at the time this Act is adopted by any county court have been serving as such for one year next previous shall be eligible for appointment to the county police force to hold the same grade of rank held by them on the county patrol, without examination. The provisions of Section 6 of this Act shall not apply to or affect such county patrolmen.

§ 10. (1) No person shall be appointed as a county policeman on account of political partisan service rendered by him or on account of political sentiment or activities, nor shall any policeman be removed, discharged, reduced in grade or rank or paid for any political opinion.

(2) No county policeman shall actively participate in any political activity or coerce, persuade or in any way participate in any election, except to vote.

§ 11. (1) No county policeman after serving a probationary period of six months shall be removed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law involving moral turpitude or of any rule adopted by the county court or the commission, and then only in the manner hereinafter provided.

(2) In the event any county judge or any commission shall reduce the number of districts or of policemen, after a county police force shall have been established under the provisions of this Act, or eliminate any rank or grade of policeman, such reduction shall be strictly upon the basis of seniority, and in the case of reduction of the number of police the policeman last appointed shall be first discharged, and in the case of reduction in rank, the policeman last promoted shall be the first reduced in rank. Thereafter if the number of policemen on the county police force shall be increased or the same or similar rank established, within five years after the entry of the order making such reduction or elimination, the policeman or policemen who were discharged or demoted shall on demand made within six months after such increase or re-establishment of rank, be re-appointed or promoted without examination, and before any other person is appointed to the county police force or promoted.

(3) Any person may prefer written charges against any policeman by filing such charges with the clerk of the county court. The charges must be signed by the person making them and must set out with clearness and distinctness each separate charge.

(4) When probable cause appears to him, the county judge shall prefer charges against any policeman whom he

believes guilty of any conduct justifying his removal or demotion in the interest of public order.

(5) Where the county judge has probable cause to believe that any policeman has been guilty of conduct justifying punishment he shall immediately suspend such policeman from duty or from both pay and duty pending trial, and the policeman shall not be placed on duty or allowed pay thereafter until the charges are heard.

§ 12. (1) Upon the filing of charges the clerk of the county court shall without delay notify the members of the commission and they shall fix a time and place for hearing the charges. The clerk shall give the accused policeman at least three days' notice of the hearing by serving a copy of the charges on him together with a statement of the time and place of hearing. The policeman may waive service of the charges and demand trial within three days after they have been filed with the clerk.

(2) Upon the hearing the charges shall be considered traversed and put in issue and the trial shall be confined to the issues presented by the written charges.

(3) The commission may compel the attendance of witnesses by subpoenas issued by the clerk, served as other subpoenas, and shall have the power of a county court to punish for contempt. The accused policeman is entitled to have witnesses subpoenaed on his behalf, upon furnishing their names to the clerk.

§ 13. (1) The action and decision of the commission on the charges shall be reduced to writing and certified to the county court, and become a record of such court. If punishment is inflicted such punishment shall be upon order of the county court carrying the decision of the commission into effect.

(2) The county court, when recommended by the commission after hearing, shall punish any policeman found

guilty of a charge under this Act by reprimand, by suspension for a length of time not to exceed six months, by reducing his grade, or by combining any two or more of such punishments, or by removing or dismissing him, according to such recommendation.

§ 14. (1) If a policeman is punished by suspension of more than thirty days, by reduction in grade or by removal or dismissal, he may appeal to the circuit court of the county. The enforcement of the judgment of the county court shall not be suspended pending the appeal.

(2) Upon the written request of the policeman and payment of the cost thereof, the clerk of the county court shall file in the circuit court a certified copy of the charges and the finding or judgment of the county court, whereupon the cause shall be docketed and tried do novo. If the clerk fails to certify and file the transcript within five days after request is made the policeman may file an affidavit in the circuit court setting out as fully as possible the charges made and the judgment, with a statement of the fact that demand had been made for a transcript more than five days prior thereto. Upon the filing of the affivadit the cause shall be docketed and the circuit court may issue mandatory order to compel the filing of the transcript by the clerk and punish him for contempt for failure so to do.

(3) The appeal shall have precedence over other business and be taken up and determined speedily.

(4) If the original punishment fixed by the county court upon recommendation of the commission was removal or dismissal of the policeman, he may appeal from the circuit court to the Court of Appeals as in other cases.

§ 15. (1) Any county court adopting by order the provisions of this Act may provide in the order or by a subsequent order for a pension fund for the benefit of county policemen, and for that purpose may create a pension board,

designate and fix the powers of the trustees of the board, provide for the creation and maintenance of fund by the levy of a tax not exceeding ..... cents on each one hundred dollars value of taxable property in the county and assess monthly such amount or per cent of the wages of each policeman as may be equitably determined on a fair actuarial basis not to exceed a per cent greater than five per cent of the monthly salary of the policeman. The fund shall be used for the retirement of policemen after a prescribed number of years of service, for the benefit of disabled policemen and for the benefit of widows and dependent children in case of death of a policeman while acting within the line of his duty. The order may prescribe the terms and conditions of eligibility of policemen or their dependents to a pension or other benefit, and may provide a monthly allowance for eligible policemen not to exceed one-half of the monthly salary or wage of the policeman at the time of his retirement.

(2) When a county court creates a pension fund under this Act and accepts from the county policemen a portion of their wages and levies a tax therefor, an inviolable contract shall be created and exist between the county as employer and such policemen. The county and the policemen shall continue to operate under this Act and the adopting order and no subsequent order shall affect the policemen unless by mutual consent of the county and the policemen.

§ 16. Any person violating the provisions of subsection (2) of section 10 of this Act shall be fined Two Hundred and Fifty Dollars ($250.00), or imprisoned six months in the county jail, or both so fined and imprisoned.

By Mr. McPherson

H. B. 392. An Act to amend and re-enact Section 4 of Article 6 of Chapter 22 of the Acts of the General Assembly of 1906, and to amend and re-enact the amendment to said Section 4 of Article 6, which amendment is Section 1 of

Chapter 97 of the Acts of the General Assembly of 1938, being Section 4108 in Supplement to Baldwin's 1936 Edition of Carroll's Kentucky Statutes, by providing for the ad valorem taxation of distilled spirits by counties, cities and school districts at the prevailing rates of taxation on tangible personal property.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4 of Article 6 of Chapter 22 of the Acts of the General Assembly of 1906, and the amendment to said Section 4 of Article 6, which amendment is Section 1 of Chapter 97 of the Acts of the General Assembly of 1938, being Section 4108 in Supplement to Baldwin's 1936 Edition of Carroll's Kentucky Statutes, be and the same is hereby amended and re-enacted so that the same as amended and re-enacted shall read as follows, to-wit:

"Section 4108. Values Certified to Auditor and Clerk. Immediately after finally fixing such values, the board shall certify to the auditor of public accounts the value of the spirits as assessed for state tax; and said officer shall certify to the said county clerk of the respective counties, the amount liable for county, city, town or district taxation, and the date, when the bonded period will expire on such spirits. The report shall be by the county clerk filed in his office, and by him certified to the proper collecting officer of the county, city, town or taxing district for collections.

Said spirits in addition to the tax thereon for state purposes, shall be taxed for county purposes, school purposes and town and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts, towns and cities in which such spirits are warehoused or stored."

By Mr. Springate.

H. B. 393. An Act relating to revenue and taxation, and requiring auctioneers doing business in Kentucky to pay a State license fee.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. All auctioneers doing business in Kentucky shall be required to pay an annual state license fee of Eleven Dollars ($11.00). All auctioneers who are residents of the Commonwealth of Kentucky shall obtain such license from the county court clerk of the county of their residence. All nonresident auctioneers shall obtain their license from any county court clerk of the Commonwealth.

§ 2. The licenses herein provided for shall be issued on forms prepared by the Department of Revenue and shall be exclusive of all other taxes in the Commonwealth. The county court clerk shall retain One Dollar ($1.00) as his fee on each license and shall transmit Ten Dollars ($10.00) to the State Treasurer of the Commonwealth to be credited to the general fund.

§ 3. This Act shall become effective July 1, 1940.

By W. H. Riley.

H. B. 394. AN ACT providing for the election of drainage commissioners provided for in Section 2380c-1, Carroll's Kentucky Statutes, Baldwin's 1936 Revision and fixing their term of office.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the drainage commissioners in all counties

having seventy-five (75) or more separate drainage districts and who are now under the provisions of section 2380c-1, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, appointed by the county judge thereof, shall hereafter and upon the first Tuesday after the first Monday in November, 1941, and every four (4) years thereafter be elected by the electors of the county for a term of four (4) years commencing on the first Monday in the next succeeding January after said election.

§ 2. That all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Riley.

H. B. 395. An Act relating to game and fish and declaring an open season on wild birds, and providing a penalty for the violation thereof.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 1954d-54 of Carroll's Kentucky Statutes, be repealed, amended, and re-enacted, so that when said section is repealed, amended, and re-enacted, it will read as follows:

"Any person who takes or has in his possession in this State any wild birds except during the open season hereinafter provided for a particular species shall be guilty of a misdemeanor and upon conviction thereof before a court of competent jurisdiction shall be fined not less than Fifteen Dollars ($15.00) nor more than One Hundred Dollars ($100.00) for each offense.

The open season for the particular species of wild birds shall be as follows:

Quail or bobwhite, November 24 to January 9;
Doves, September 1 to October 31;

Wood cock, November 24 to December 15;
Snipe, no open season;
Ruffed Grouse, no open season;
Wild turkey, no open season;
Ring Necked Pheasant, no open season;
Ducks, October 1 to December 31;
Geese, October 1 to December 31.

No person shall take any of the wild birds provided in this section except during the hours from sunrise to sunset.

By Mr. Bach.

H. B. 396. AN ACT authorizing counties to lease certain structures and buildings and their appurtenances from corporations, authorizing the incorporation of corporations for that purpose, and providing for the acquisition and erection of such structures and buildings.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Nonprofit corporations having no capital stock may be incorporated in this state for the purpose of erecting or improving bridges, infirmaries, courthouses, jails, garages and office buildings and leasing them to a county.

§ 2. Fiscal courts may, in the manner provided by this Act, lease bridges, infirmaries, courthouses, jails, garages and office buildings from corporations, described in section 1, and may lease or convey property now owned by the county to such corporations, and make other necessary contracts to carry out the purposes of this Act.

§ 3. When the fiscal court desires to lease such property it shall notify the corporation which shall select an architect. The architect shall be approved by the fiscal court and shall draw up the plans and specifications giving a full description

and the details and manner of construction of the structures to be constructed or improved. When the plans and specifications have been approved by the corporation and the fiscal court they shall be filed in the office of the county court clerk.

§ 4. The fiscal court may then enter into a contract to lease the property after the structures thereon have been completed. The contract shall specify the annual rental payments which shall be sufficient to pay off the bonds to be issued by the corporation and interest thereon within fifty years, and pay the cost of insuring the property against fire, windstorm and other calamity, and the payments shall continue until the bonds and coupons are paid off. Rental payments do not become a debt of the county until the year in which they are due.

§ 5. The fiscal court shall combine under one lease all properties to be improved or constructed at any one time and shall not enter into a lease under this chapter but one time in any five-year period, and then only when rentals of leased property have been paid according to the contract, and the bonded indebtedness of the county has been reduced according to schedule.

§ 6. The total amount of rent to be paid to a corporation by a county under a lease provided for by this Act shall not exceed one per cent of the assessed valuation of the county.

§ 7. Where a bridge is included in the property to be rented by the county the fiscal court shall grant a franchise for the maintenance of the bridge until the bonds are paid off and shall provide a means of approach to the bridge, and shall maintain the bridge and appurtenance thereto out of the county road funds.

§ 8. To acquire funds with which to acquire, construct and improve bridges, infirmaries, courthouses, jails, garages and office buildings with their appurtenances the corporation shall by resolution provide for the issuance of negotiable

bonds. The resolution shall specify the proposed undertaking, the amount of bonds to be issued and the rate of interest, not exceeding six per cent, to be paid on the bonds.

§ 9. The bonds shall be sold in the manner and upon terms prescribed by the directors of the corporation and approved by the fiscal court. The bonds shall be payable solely from funds derived from rental of the property and shall not constitute an indebtedness of the county within the meaning of the Constitution and these facts shall be stated on the bonds. The bonds and coupons shall be exempt from taxation.

§ 10. All money received from bonds shall be applied solely to acquire, construct and improve, and insure the property for which the bonds were issued, and to defray the expenses of issuing and paying the bonds, but such money may be used to advance the payment of the interest on the bonds during the first three years after the bonds are issued.

§ 11. Bondholders and couponholders shall have a lien upon property held by the corporation to the extent of the face value of the unpaid bonds and coupons held by them.

§ 12. (1) Bondholders and couponholders may by legal action compel the performance of all duties required by this Act, including the making and collecting of sufficient levies to pay rent to the corporation, and the segregation of revenue and application thereof.

(2) Upon default in the payment of bonds or interest thereon the circuit court may appoint a receiver who may enforce the collection and payment of rentals or enforce the bondholders' liens on the property.

§ 13. When the bonds and coupons are paid off by the corporation the title to all property, real and personal, owned by the corporation shall immediately vest in the county.

§ 14. The fiscal court shall in its annual budget and levy provide within the constitutional limitation for the payment

of rent for property leased under this Act, which shall be considered an ordinary expense of the county.

§ 15. Whereas, many counties are now without adequate bridges, courthouses, infirmaries, jails, garages and office buildings, thus endangering the health, safety, convenience and general welfare of the children and all citizens, an emergency is declared to exist and this Act shall take effect immediately upon its passage and approval.

By Messrs. McConnell, Rayburn and Moebus.

H. B. 397. AN ACT to provide relief and assistance for taxpayers; to prescribe qualifications for eligibility of persons entitled to receive same; to establish a commission to carry out provisions of this act; to provide necessary revenue for the payment of same; to provide penalties for violations of any provisions of this Act. This Act shall be known as the Taxpayer's "Self Defense Act."

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person over twenty-one years of age who has continuously been a resident of the Commonwealth of Kentucky for a period of ten (10) years prior to the passage of this act or who shall have been such a resident for a like period prior to making application for assistance under the provision of this Act, and who shall have paid taxes to the Commonwealth of Kentucky during each of said years and who has not at any time held a public office in this Commonwealth paying more than Two Thousand ($2,000.00) Dollars a year for as many as four years, shall be eligible to receive the assistance provided for herein.

§ 2. Any person eligible under the provisions of this act shall be entitled to receive the sum of Fifty ($50.00) Dollars per month, payable monthly, for the rest of his life.

§ 3. Any eligible person may request assistance by applying therefor, in writing, to the State agency upon standard forms to be prescribed by said agency, same to be verified by applicant.

§ 4. This act shall be administered by the Department of Public Welfare by the present division thereof which handles old age pensions.

§ 5. In no case shall the amount of estate of applicant have any bearing upon eligibility of any applicant to receive the assistance herein provided for, and no investigation shall be conducted in regard to said application, and the filing of a verified application shall be all that is required to enable applicant to receive the assistance provided for by this act.

§ 6. Any person who shall file an application for assistance under this act, and shall falsely or fraudulently represent that he is qualified to receive same shall upon conviction, be confined in the penitentiary for a period of not less than one (1) nor more than five (5) years in the discretion of the jury trying same.

§ 7. The payments contemplated by this act shall begin June 1st, 1940.

§ 8. In order to carry out the provisions of this act, and to provide the necessary revenue therefor, a tax of twenty (20) cents is hereby levied on the amount of each One ($1.00) Dollar or fraction thereof, involved in every sale or transaction of any kind had in the Commonwealth of Kentucky after the passage of this act, same to be collected in the manner to be provided by the rules and regulations adopted by the State agency administering the provisions of this act.

§ 9. Whereas, it is proposed by bills heretofore introduced in this General Assembly to pension Judges of the Court of Appeals of Kentucky, who now receive only Five Thousand ($5,000.00) per year for their services and whereas, there is now legislation providing for old age assistance

and social security benefits; and whereas, the Federal Government is providing jobs for unemployed persons, and has paid the farmer for killing pigs and for not raising crops and has terraced his farm; and is providing pensions for disabled veterans, Judges of the Supreme Court, who receive a salary of only Twenty-Five Thousand ($25,000.00) Dollars per year, and pays to widows of Senators and Representatives who die while in office only Ten Thousand ($10,000.00) Dollars, and the sum of Five Thousand ($5,000.00) Dollars per year for life to widows of ex-presidents, who, during their term of office receive only Seventy-Five Thousand ($75,000.00) Dollars per year, plus expenses; and furnish direct commodity relief and jobs to persons, who for reasons best known to themselves, refuse to work at private employment; and whereas, many other schemes are in the making to encourage every one to depend upon the Government for a livelihood; and whereas, for the reasons herein mentioned, in all probability the funds of the Government will be depleted at an early date, and every possible source of revenue will soon be exhausted, and in all probability the taxpayers will not have any money to pay their taxes over a period of ten years, and thus become eligible to receive the benefits provided for in this act, an emergency is hereby declared to exist, and this act shall become effective upon the approval and signature of the Governor.

By Mr. Roll.

H. B. 398. An Act relating to revenue and taxation and providing a two per cent tax on the sale of personal property or service where twenty dollars or over is charged or paid as the purchase price.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* (1) As used in this Act:

(a) "Person" includes any individual, firm, co-partnership, joint adventure, corporation, estate or trust, or any group or combination acting as a unit unless the intention to give a more limited meaning is disclosed by the context;

(b) "Sale" or "Sales" include installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and also includes the sale of electrical energy, gas or services taxable under the terms of this Act;

(c) "Wholesaler" means a person doing a regularly organized wholesale or jobbing business and known to the trade as such and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

(d) "Wholesale sale" means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale;

(e) "Retailer" means a person doing a regularly organized retail business in tangible personal property, known to the trade and public as such and selling only to the user or consumer and not for resale. "Retail sale" includes all sales made within the state of tangible personal property except wholesale sales.

(f) "Tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or service during the period for which he is required to report his collections, as the context may require.

(g) "Purchase price" means the price to the consumer exclusive of any tax imposed by the federal government or by this Act.

(h) "Department" means the Department of Revenue,

or any duly authorized employee of same charged with the administration or enforcement of this Act.

(i) "Vendor" means every person receiving any payment or consideration upon a sale of property or service subject to the tax under the provisions of this Act, or to whom such payment or consideration is payable.

(2) (a) Each purchase of tangible personal property or service made by a person engaged in the business of producing, furnishing, manufacturing, or compounding for sale, profit or use, any article, substance, service or commodity which is actually used in the production of, or enters into the processing of, or becomes an igredient or component part of the article, substance, service, or commodity which he manufactures or compounds, produces or furnishes, or the container, label, or the shipping case thereof, shall be deemed a wholesale sale and shall be exempt from taxation under this Act.

(b) When right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rentals paid.

§ 2. No wholesaler or retailer, or proprietor of any place of amusement or entertainment shall engage in the business of selling tangible personal property or in the business of furnishing amusement or entertainment within the state after June 30, 1940 without first having obtained an annual license therefor. The license shall be granted and issued by the Department of Revenue and shall be in force and effect until the next June 30 unless sooner revoked. The license shall be granted only upon application stating the name and address of the applicant, the character of the business in which the applicant proposes to engage, the place at which the business will be transacted and such other informa-

tion as the Department requires. If business is transacted at two or more separate places by one person, a separate license for each place of business is required. Each license shall be numbered and shall show the name, residence and place and character of business of the licensee and shall be posted in a conspicuous place at the place of business for which it is issued. No license shall be transferable. The Department shall on a reasonable notice and after a hearing, revoke the license of any person violating any provisions of this Act and no license can be issued to such person within a period of two years thereafter. Any wholesaler or retailer or proprietor engaging in the business of selling tangible personal property, or in the business of furnishing amusement or entertainment within this state without having secured a license therefor, shall be guilty of a misdemeanor. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Act.

No license shall be issued until the applicant shall have paid to the Department an annual license fee of one dollar.

§ 3. (1) A tax equivalent to two per cent of the purchase price or consideration paid or charged is imposed upon:

(a) Every retail sale of tangible property except "motor vehicles" as defined in section 4281i-1 made within Kentucky, where the purchase price is twenty dollars or more.

(b) Purchases of services of carriers, or telephones or telegraph corporations rendered in Kentucky, where the price or consideration paid for the service is twenty dollars or more.

(2) The Department shall provide uniform methods and schedules for adding the tax or the average equivalent thereof to the selling price.

§ 4. (1) The vendor shall be responsible for the collection of the amount of tax imposed on said sales and shall,

on or before the fifteenth day of each month, make a return, under oath or affirmation, to the Department for the preceding month and shall remit the taxes so collected to the Department. The vendor shall, in so far as the same can be done practicably, collect the tax from the vendee, but in no case shall he collect as tax an amount (without regard to fractional parts of one cent) in excess of the tax computed at the rates prescribed by this Act. The returns shall be on forms furnished by the Department and contain such information and be made in such manner as the Department prescribes. The Department may, under rules and regulations prescribed by it, extend the time for making returns and paying the taxes collected for not more than ninety days.

(2) If the total tax to be remitted by any vendor during any month does not exceed ten dollars, a quarterly return and remittance in lieu of the monthly return, may be made on or before the fifteenth day of the month next succeeding the end of the quarter in which the tax is collected.

(3) If the accounting methods regularly employed by the vendor in the transaction of his business are such that reports of sales made during a calendar month will impose unnecessary hardships, the Department may accept reports at such intervals as will in its opinion better suit the convenience of the taxpayer and will not jeopardize the collection of the tax; but in all such cases vendor must file formal request for permission to report on these bases and the granting of said permission rests wholly with the Department.

(4) In case of a sale upon credit, or in case of a contract for sale wherein it is provided that the price shall be paid in installments and title does not pass until a future date, or in case of a conditional sale, there shall be paid upon each payment upon the purchase price, the portion of the total tax which the amount paid bears to the total purchase price.

If any vendor, during any reporting period, collects as a tax an amount in excess of two per cent of his total taxable

sales, he shall remit to the Department the full amount of the tax herein imposed, and also the excess; and if any vendor under the pretense or representation of collecting the tax imposed by this Act collects during any reporting period, an amount in excess of two per cent of his total taxable sales, the retention of such excess or any part thereof, or the intentional failure to remit punctually to the Department the full amount required to be remitted by the provisions of this Act, shall be punishable by a fine of not exceeding One Thousand Dollars or by imprisonment for not to exceed six months, or both.

§ 5. Except in accordance with judicial order or as otherwise herein provided, the Department, its agents, clerks and employes shall not divulge any information gained by it from any return filed under the provisions of this Act. The officials charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Department in an action or proceeding under the provisions of this Act to which it is a party, or on behalf of any party to any action or proceeding under the provisions of this Act when the report or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said reports or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein contained shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return or report filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General or other legal representative of the state of the report of return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been

instituted under this Act. Reports and returns shall be preserved for three years and thereafter until the Department orders them destroyed.

Any state officer or employee who divulges any such information in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation of this Act.

§ 6. After the return is filed, the Department shall examine it; if it appears that the correct amount of tax to be remitted is greater or less than that shown in the return to be due, the tax shall be recomputed. If the amount paid exceeds that which is due, the excess shall be credited against any subsequent remittance from the same person. If the amount paid is less than the amount due, the difference, together with interest thereon at the rate of one per cent per month from the time the return was due, shall be paid by the vendor ten days after notice and demand to him from the Department.

If any part of the deficiency is due to negligence or intentional disregard of authorized rules and regulations with knowledge thereof, but without intent to defraud, there shall be added ten per cent of the total amount of the deficiency and interest in such a case shall be collected at the rate of one per cent per month on the amount of such deficiency from which interest and additions shall become due and payable ten days after notice and demand to him by the Department. If any part of the deficiency is due to fraud with the intent to evade, then there shall be added not more than one hundred per cent of the total amount of the deficiency and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable ten days after notice and demand by the Department and an additional one per cent per month on said amount shall be added from the date the same was due until paid.

§ 7. Every person engaging or continuing in any busi-

ness for the transaction of which a license is required under this Act shall keep and preserve suitable records of all sales made by him and such other books or accounts as may be necessary to determine the amount of tax for the collection of which he is liable under the provisions of this Act. Every such person shall keep and preserve for a period of three years all invoices of goods and merchandise purchased for resale and all such books, invoices and other records shall be open for examination at any time by agents of the Department. If no return is made by any person required to make returns as provided herein, the Department shall give written notices by mail post paid to the person to make the return within thirty days of the date of such notice and if the person fails or refuses to make the return, the return shall be made by the Department from the best information available and shall be prima facie correct for the purposes of this Act, and the amount of the tax due thereon shall be deemed a deficiency and subject to the addition of penalties and interest as provided in section 6 hereof.

§ 8. The tax imposed by this Act shall be a lien upon the property of any wholesaler or retailer or proprietor who sells out his business or stock of goods or quits business and such person shall be required to make out the return provided for under section 4, within thirty days after the date he sells out his business or stock of goods, or quits business, and his successor in business shall withold sufficient of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the Department showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withold the purchase money as above provided and the taxes are due and unpaid after the thirty-day period allowed, he shall be personally liable for the payment of the taxes collected and unpaid by the former owner.

§ 9. A tax due and unpaid under this Act constitutes a

debt due the state from the vendor and may be collected, together with interest, penalty and costs, by appropriate judicial proceedings, which remedy shall be in addition to all other existing remedies.

§ 10. If any person, having made a return and paid the tax provided by this Act, feels aggrieved by the assessment made upon him by the Department, he may apply to the Department by petition in writing within ten days after the notice is mailed to him for a hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why the hearing should be granted and the amount by which the tax should be reduced. The Department shall notify the petitioner of the time and place fixed by it for the hearing. After the hearing, the Department may make such order in the matter as may appear to it just and lawful and shall furnish a copy of the order to the petitioner.

§ 11. (1) Every decision of the Department shall be in writing and notice thereof shall be mailed to the vendor within ten days, and all such decisions shall become final unless an appeal therefrom is taken as herein provided.

(2) Any person who feels aggrieved by the decision of the Department may take an appeal from the decision to the Franklin Circuit Court where a trial de novo shall be had.

(3) The person appealing shall, within sixty days after the decision of the Department, file in the Franklin Circuit Court, a petition setting out the cause of complaint and a copy of the decision of the Department, together with a copy of the records of the Department duly certified by the stenographer at the hearing by the Department.

(4) The party appealing shall, at the time of filing the appeal, enter into an undertaking to be approved by the clerk or judge of the Franklin Circuit Court to be given to the state in such amount as the court or judge may fix, but in no case less than five hundred dollars and conditioned that the appellant shall prosecute the appeal without unnecessary

delay, and for the payment of all taxes, interest and charges found by said Department to be due, together with the costs which may accrue in the prosecution of said case, if the decision of the Department is affirmed.

(5) The clerk of the Franklin Circuit Court shall immediately upon filing of said appeal, notify the Commissioner of the Department under seal of the court, and supply him with a copy of the petition.

(6) The Attorney General shall represent the Department in proceedings on appeal.

(7) All proceedings on appeal, except as herein otherwise provided, shall be the same as in equity cases.

(8) The person appealing from the decision of the Department, or the Department, shall have the right to appeal to the Court of Appeals from the decision of the Franklin Circuit Court in the manner now provided in the Code of Civil Procedure.

§ 12. All notices required to be mailed to the vendor under the provisions of this Act, if mailed to him at his last known address as shown on the records of the Department are sufficient for the purposes of this Act.

§ 13. The license and tax imposed by this Act are in addition to all other licenses and taxes provided by law.

§ 14. It shall be a violation of this Act for any retailer to advertise or hold out, or state to the public, or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retailer, or that it will not be considered as an element in the price to the consumer, or if added, that it, or any part thereof, will be refunded.

§ 15. It shall be a violation of this Act for any vendor to refuse to make any return provided to be made in this Act or to make any false or fradulent return or false statement on any return or to evade the payment of the tax, or any part

thereof, imposed by this Act or for any person to aid or abet another in any attempt to evade the payment of the tax or any part thereof imposed by this Act.

§ 16. The administration of this Act is vested in and shall be exercised by the Department of Revenue which may prescribe forms and rules and regulations in conformity with this Act for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder.

§ 17. (1) Any person violating the provisions of this Act shall for each offense be fined not more than one thousand dollars, or imprisoned for not exceeding six months or both.

(2) The circuit court of the county in which the offender resides, or if a company, in which it carries on business, shall have jurisdiction of offenses under this Act.

§ 18. All moneys collected under this Act, except fines for violations, shall be paid into the State Treasury in a fund to be known as the "County Aid Fund." At the end of three month periods, to be designated by the Department of Finance, an amount equal to the amount expended by the Department of Revenue to carry out this Act, during the three month period shall be transferred from the County Aid Fund and credited to the appropriations for the Department of Revenue. The remainder of the money in the County Aid Fund shall be distributed among all the county treasuries in the state as follows: one-third shall be distributed according to the ration which the population of each county bears to the total population of the state, and two-thirds shall be distributed equally among all the counties.

By Messrs. Hunnicutt and Juett.

H. B. 399. An Act to license the operation of pumps whereat motor fuel is vended to the public; defining pump within the meaning of this Act; establishing the method of

collection of such license tax; requiring wholesale dealers to submit lists of pumps served; enabling the Department of Revenue to promulgate rules and regulations for the administration of this Act; and providing a penalty for the violation of this Act.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby imposed a tax of One Dollar ($1.00) on all fuel pumps operated within this State at which motor fuel or gasoline is vended to the public. This tax shall be paid on or before July 1 after the effective date of this Act, and annually thereafter.

§ 2. The Department of Revenue shall collect the license tax imposed herein, shall issue to each licensee a receipt for each pump, which receipt shall be displayed prominently on said pump, and the Department of Revenue shall issue such rules and regulations for the collection of such tax and the distribution of such receipts as shall be necessary to put this Act into effect.

§ 3. It shall be the duty of all persons, firms, associations, or corporations selling gasoline or other motor fuel for wholesale within the Commonwealth of Kentucky to submit a list of customers who vend such gasoline or motor fuel through the medium of pumps, and the report shall also include the total number of pumps operated in the sale of such fuels. The report shall be revised at least once in each month to include new or additional pumps installed by purchasers of such fuel, from such wholesalers. Said report shall be submitted to the Commissioner of Revenue.

§ 4. Each dealer in gasoline or motor fuels shall display on each pump a suitable tag or receipt issued by the Department of Revenue, and any person offering for sale gasoline from any pump on which this license tax has not

been paid or on which pump the receipt for said license tax is not displayed or any dumping gasoline or other motor fuel into the storage tank of any such unlicensed pump shall be guilty of a misdemeanor, and upon conviction shall be fined not more than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00) for each offense. Each day that fuel is offered for sale from such unlicensed pumps and each time that fuel is dumped into the storage tank of such unlicensed pump shall be deemed a separate offense.

§ 5. All moneys received by the Department of Revenue from the sale of licenses provided for herein shall be immediately surrendered to the Department of Finance and such sum shall be credited in favor of the Department of Revenue, and shall be deposited in the General Expenditure Fund.

§ 6. A pump within the meaning of this Act shall be any device used by any person selling motor fuel to the public at retail by which motor fuel is transmitted from a storage tank to any container delivered or deliverable to the recipient of the fuel.

§ 7. All laws or parts of laws in conflict herewith are, to the extent of such conflict, hereby repealed.

By Messrs. Hunnicutt and Juett.

H. B. 400. An Act to appropriate additional funds out the General Expenditure Fund to the Division of Publicity of the Department of Conservation for the fiscal years ending June 30, 1941, and June 30, 1942.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby appropriated out of the General Expenditure Fund to the Division of Publicity of the Department of Conservation, for the fiscal year ending June 30,

1941, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky, 1940 Regular Session, known as House Bill No. ....., and entitled:

"An Act to license the operation of pumps whereat motor fuel is vended to the public; defining pump within the meaning of this Act; establishing the method of collection of such license tax; requiring wholesale dealers to submit lists of pumps served; enabling the Department of Revenue to promulgate rules and regulations for the administration of this Act; and providing a penalty for the violation of this Act."

§ 2. There is hereby appropriated to the Division of Publicity of the Department of Conservation, for the fiscal year ending June 30, 1942, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky 1940 Regular Session, known as House Bill No. ....., and entitled:

"An Act to license the operation of pumps whereat motor fuel is vended to the public; defining pump within the meaning of this Act; establishing the method of collection of such license tax; requiring wholesale dealers to submit lists of pumps served; enabling the Department of Revenue to promulgate rules and regulations for the administration of this Act; and providing a penalty for the violation of this Act."

By Mr. Ennis.

H. B. 401. AN ACT to repeal section 4618-100 Carroll's Kentucky Statutes 1936 edition relating to the Highway Commission.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 4618-100 Carroll's Kentucky Statutes, 1936 edition, be and the same is hereby repealed.

By Mr. King.

H. B. 402. An Act prohibiting the sale to or by females, or employment of or presence of females on the premises of a licensed retail dealer of intoxicating alcoholic or malt beverages, when the dealer has permitted disorderly conduct of females, employees or patrons, on his premises, and providing for issuing license for men patrons only, and exclusion of females from the premises.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon a hearing before the Alcoholic Beverage Administrator, where the proof shows to his satisfaction that the presence of any female upon the premises of a licensed location is the cause of disorder such as is forbidden by Section 2554b-180, Carroll's Kentucky Statutes, 1938 Supplement, the Alcoholic Beverage Administrator may, by order, insetad of revoking said license, prohibit retail sale to, retail sale by, employment of, and the presence upon the premises of any female. Said order of said Administrator being subject to the appeal as already provided by law.

§ 2. Upon so ordering, the license must be stamped with the words "Men Only" on the face of the license, in whatever manner decided upon by the Alcoholic Beverage Control Board, and the license is prohibited from retail sale to, retail sale by, employment of, and the presence upon the premises of any female. Any premises affected by this sec-

tion shall have printed upon the front window of the premises and conspicuously displayed where customers are served, the words "Men Only" in uniform letters not less than four (4) inches in height.

The restrictions and requirements of this section will apply to the licensee upon each renewal or granting of license, regardless of location.

By Mr. Florence.

H. B. 403. An Act relating to revenue and taxation by imposing a license tax on certain occupations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No practicing lawyer, certified public accountant, investment consultant, undertaker, embalmer, barber, beautician, palmist, spiritualist, fortuneteller, pharmacist, veterinary, dentist, orthodonist, oculist, optometrist, chiropractor, osteopath, chiropodist, surgeon, physician, or practitioner of the art of healing for a fee, shall exercise the privileges of his occupation or profession until he has first obtained a license to engage in such an occupation or profession from the county court clerk of the county wherein such person is engaged in such occupation or profession.

§ 2. The county court clerk shall issue such licenses upon the payment of five dollars ($5.00) tax plus one dollar ($1.00) fee. The tax imposed hereby shall be distributed and deposited as receipts from license taxes imposed by the Occupational License Law, enacted as House Bill No. 123, Act of the 1940 General Assembly, and the provisions of this Act are to be administered and the licenses imposed by this Act are to be issued under the same conditions as provided in the said Occupational License Law which is hereby

declared to be incorporated in its entirety as a part of this Act.

§ 3. For the purposes of this Act, a "practicing lawyer" shall mean and include any person performing legal services and/or receiving payment for activities of a legal nature which shall include, among other things, preparation of deeds, mortgages and wills.

§ 4. Persons engaged in the occupation stated in section 1 of this Act and who are employed exclusively by the federal state and/or local governments shall be exempt from the provisions of this Act.

By Mr. Bevins.

H. B. 404. AN ACT relating to revenue and taxation; providing for the assessment of real estate and personal property, prescribing the duties of county tax commissioners and the Kentucky Tax Commission relating thereto, and providing compensation for the services of county tax commissioners and county court clerks; amending sections 4052, 4076a-2, 4120, 4121, and 4239i-1 of Carroll's Kentucky Statutes, 1936 edition, and section 1 of Chapter 52 of the Acts of 1938, compiled as section 4042a-8 of Baldwin's Kentucky Statute Service, May, 1938; and repealing section 4121-1 of Carroll's Kentucky Statutes, 1936 edition, and section 1 of Chapter 43 of the Acts of 1938, compiled as section 4072 of Baldwin's Kentucky Statute Service, May, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4052 of Carroll's Kentucky Statutes is amended to read as follows:

(1) *Time of assessment.* All taxable real and personal estate in each county shall be listed, valued and assessed as

of July 1, every fourth year, beginning in 1942. Re-assessments of real or personal estate may be made as of July 1 of any year, whenever the county tax commissioner has knowledge of a change in value or the Kentucky Tax Commission directs a reassessment. The person owning or possessing the property on July 1 of the assessment year shall list it with the county tax commissioner and shall pay the tax, unless he is exempted by section 4023, or has since disposed of, or lost it and has given notice to the county tax commissioner as required in subsection (3) of this section.

(2) *Notice of acquisition of property or increase in value; re-assessment.* The owner of any real estate on which any improvement worth or costing more than five hundred dollars has been erected, other than ordinary repairs, or from which coal or minerals are being taken, and any person who, since the last day on which his property was assessed, has acquired real or personal estate worth two hundred dollars or more, and any owner of personal estate which has increased in value in the aggregate as much as two hundred dollars since the last day on which his property was assessed, or re-assessed, shall, on or before the following July 15, notify the county tax commissioner in writing, setting forth the location of the real estate, the nature of the property acquired, the nature of the improvement, development or increase in value, and what part of the acquisition, improvement, development or increase was completed or took place before July 1 of the year when the notification is made. Any owner who fails to give timely notice shall, in addition to the tax thereon, pay a penalty of twenty per cent of the amount of the tax. If the tax is collected by action under section 4263, the owner shall also pay the penalty imposed by that section. The county tax commissioner, upon being informed in any manner that improvements have been made or coal or minerals are being developed, or that the value of the personal estate of any person has increased in the aggregate as much as two

hundred dollars, or that any person has acquired property worth that amount, shall notify the owner to appear before him for the purpose of revaluing and re-assessing the property at its enhanced value as of July 1 next after the improvement or development was begun, or for the purpose of assessing and listing newly acquired property in the new owner's name, as of July 1 next after the acquisition. If the owner fails without reasonable excuse to appear, the county tax commissioner shall revalue and re-assess the property in his absence. In valuing or assessing coal or mineral lands, the county tax commissioner shall lay off an area surrounding each existing mine or well, large enough to include the coal or minerals which may reasonably be expected to be mined or taken within the next four years, and value or assess the area as the only area of which the value is increased by development or diminished by depletion.

(3) *Notice of decrease in value; disposition of property; re-assessment.* Any owner of real estate the value of which has been diminished by depreciation or by the destruction or removel, in whole or in part, of improvements, timber, coal or minerals, or any owner of taxable personal estate the value of which has been diminished or destroyed, or any former owner of taxable real or personal estate who has parted with it since the last July 1, may notify the county tax commissioner in writing, giving details, and upon receiving such notice the county tax commissioner shall revalue and re-assess the property as of July 1 next after the destruction, removal, or other loss in value began, or strike the property from the assessment books.

(4) *Public records to which county tax commissioner has access.* The county tax commissioner and his deputies shall have access to all public records on file in the county for the purpose of obtaining information as to changes in the value of property, and shall have access to the election registration records for the purpose of determining what persons in his county are subject to poll tax.

(5) *Notice of subdivision.* Whenever real estate is subdivided into lots and any of the lots are sold, the county tax commissioner shall revalue and re-assess all of the subdivided property as of July 1 next following the subdivision of the property.

(6) *Duties of county court clerk.* The county court clerk shall note on the tax books each transfer of real estate in the county and the price paid. When the work of the Board of Supervisors has been completed and transferred to the tax books, the clerk shall immediately prepare and forward to the Kentucky Tax Commission a complete statement of all new assessments and changes in assessment of each class of real estate, and a statment of all omitted assessments and exonerations.

§ 2. Section 1 of Chapter 52 of the Acts of 1938, compiled as section 4042a-8 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

(1) *Compensation of county tax commissioner.* For the assessment of property subject to both state and county taxes, the compensation of the county tax commissioner shall be paid one-half by the state and one-half by the county. For the assessment of property subject to state tax only, the compensation shall be paid by the state.

(2) *Preservation of claim; payment of first installment of compensation.* After the county tax commissioner has returned his assessment books to the county court clerk, and the accuracy of the assessment books has been tested and a recapitulation of the assessment forwarded to the Kentucky Tax Commission, he shall present to the Kentucky Tax Commission a verified claim in duplicate, showing the total assessed value of property listed on his tax books, the amount and class of property subject to state tax only and the compensation due thereon, and the amount of property subject to state and county taxation and the compensation due thereon. The Kentucky Tax Commission shall approve

the claim, if correct, and certify the state's part to the Department of Finance, which shall draw its warrant upon the Treasurer to pay eighty per cent of the amount due the county tax commissioner from the state. The Kentucky Tax Commission shall certify to the county court eighty per cent of the amount due the county tax commissioner from the county, and fiscal court shall allow him that amount.

(3) *Presentation of claim; payment of second installment of compensation.* After the Board of Supervisors has completed its work and the county court clerk has corrected the tax books and forwarded to the Kentucky Tax Commission a recapitulation of the tax books as equalized and corrected by the Board of Supervisors, the county tax commissioner shall present to the Kentucky Tax Commission a verified claim in duplicate, showing the total amount of property as assessed and equalized, the amount and class of property subject to state tax only and the balance of the compensation due from the state, and the amount subject to state and county taxes and the balance of the compensation due thereon from the state and county. The Kentucky Tax Commission shall examine the claim, and if it finds the claim correct shall certify to the Department of Finance the balance due from the state, and to the county court the balance due from the county. The certified claim shall be paid as other claims against the state or a county are paid. If any claim is incorrect, the Kentucky Tax Commission may correct it and certify the balance due according to the corrected claim.

(4) *Amount allowed to county tax commissioner for compensation and expenses.* The county tax commissioner shall be allowed for his own compensation, which shall in no case exceed four thousand dollars per year, and for the compensation of his assistants, and for office expenses, the following amounts, based on the total value of the equalized assessment of the county: Five cents on each hundred dollars of the first million dollars; one and one-half cents on each one hundred dollars on the excess over one million dol-

lars. If the assessment of the county does not exceed one million dollars, the rate shall be six cents on each one hundred dollars. In any county where poll tax is imposed, the county tax commissioner shall receive five cents for listing each poll, to be paid out of the county levy on claims submitted to the fiscal court separately from the claim for assessment of property. The total sum allowed to a county tax commissioner for compensation, deputies, assistants, and office expenses shall not exceed ten thousand dollars per year, except in counties having a city of the first class, and in such counties the amount shall not exceed thirty-five thousand dollars per year.

(5) *Advancements to county tax commissioner in certain counties.* In counties having a city of the first class, the State Treasurer shall allow the county tax commissioner an advancement of twelve hundred dollars per month and the fiscal court an advancement of eight hundred dollars per month as partial payment of compensation, salaries of assistants and deputies and office expenses, both advancements to be paid on the first day of each month in years when all property is assessed as a whole. In counties having a city of the second class, the state and county advancements shall be one hundred and eighty dollars and one hundred and twenty dollars, respectively, payable on the first day of April and the first of each month to and including December 1 of each year when all property is assessed as a whole. Advancements made in any year shall be deducted from the amount found to be due to the county tax commissioner when the annual settlement is made, and if any county tax commissioner dies, resigns, or is removed, or his office becomes vacant, any advancements made to him since his last annual settlement shall be deducted from the compensation and other allowances still due him.

§ 3. *Compensation* in years when all property not assessed *as a whole.* In any year when all property is not

assessed as a whole, the amount allowed the county tax commissioner for his own compensation, the salaries of deputies and assistants, and office expenses shall be calculated on the basis of all real and personal estate assessed as of July 1 of that year, using the rates set forth in subsection (4) of section 2 of this Act, and an additional amount of twenty-five per cent of the total claim shall be added. But the compensation of the county tax commissioner, and the maximum total allowance for his compensation, the salaries of his deputies and assistants, and office expenses shall be limited as in years when all property is not assessed as a whole.

§ 4. Section 4076a-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

For these services required by section 4076a-1, the county court clerk shall be paid five cents per line across the page of the tax book, one-half to be paid by the state and one-half by the county.

§ 5. Section 4120 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The Board of Supervisors shall examine and correct the assessment books of the county tax commissioner, and where the evidence is clear and unmistakable that any property has not been assessed at its fair cash value the Board may raise or reduce the assessment, if the property was assessed as of the last July 1, or the re-assesment, if the property was only re-assessed as of the last July 1. If any property has been omitted by the county tax commissioner, in whole or in part, the Board of Supervisors shall list it.

§ 6. Section 4121 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Length of sessions; clerk of Board of Supervisors.

(1) The Board of Supervisors shall remain in session at its first meeting in each year when all property is assessed as a whole: In counties having a city of the first class, not

more than thirty days; in counties having a city of the second class, not more than twenty-four days; in counties having only a city or cities of the third, fourth or fifth class, not more than twenty days; in counties not having a city larger than sixth class, not less than two nor more than twelve days.

(2) The Board of Supervisors shall remain in session at its first meeting in each year when all property is not assessed as a whole: In counties having a city of the first class, not more than twenty-five days; in counties having a city of the second class, not more than twenty days; in counties having only a city or cities of the third, fourth or fifth class, not more than sixteen days; in counties not having a city larger than sixth class, not less than two nor more than eight days.

(3) The clerk of the county court shall act as clerk of the Board of Supervisors, and shall be paid the same compensation as a member of the Board and in the same manner. The clerk shall prepare and deliver to the sheriff a list of the names of all persons whose property has been raised by the Board of Supervisors, and the amount of the raise.

§ 7. Section 4239i-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

After the county tax commissioner has completed his assessment books and turned them over to the county clerk, and the county clerk has made a recapitulation thereof and forwarded it to the Kentucky Tax Commission, the county tax commissioner shall immediately make out the tax bills of all adult citizens of the county who are liable for a poll tax. In making out the poll tax bills, he shall obtain the names from the election registration books. After making out the bills, he shall immediately turn them over to the sheriff, who shall collect them in the same manner as other taxes.

§ 8. Section 4121-1 of Carroll's Kentucky Statutes, 1936 edition, and section 1 of Chapter 43 of the Acts of 1938,

compiled as section 4072 of Baldwin's Kentucky Statute Service, May, 1938, are repealed.

§ 9. This Act shall take effect on the first Monday in January, 1942.

By Mr. Bevins.

H. B. 405. AN ACT relating to registration of voters, amending section 14 of Chapter 111 of this Acts of 1938, compiled as section 1496-14 of Baldwin's Kentucky Statute Service, May, 1938, and repealing House Bill No. 96 of the Regular Session of 1940.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 14 of Chapter 111 of the Acts of 1938, compiled as section 1496-14 of Baldwan's Kentucky Statute Service, May, 1938, is amended to read as follows:

1496-14. *Time for closing registration books; registration at places outside county seat.* (1) Any person qualified to register as a legal voter may appear before the county court clerk of the county where he resides, or before the Board of Registration Commissioners if he resides in a city of the first class, and register or change his party affiliation, at any time during office hours and while the registration books are open. The county court clerk, or the Board of Registration Commissioners in a city of the first class, shall cause all registration books or lists to be closed fifty-nine days prior to any primary or general election, and re-opened not earlier than ten days after the primary or general election.

(2) At some time during the period beginning ten days after the general election and ending fifty-nine days before the next primary election, the county court clerk of each county shall cause the registration books for each precinct in

his county not lying in an incorporated city or in the county seat to be taken to that precinct, and shall cause the registration books for the precincts lying in each incorporated city in his county, other than the county seat, to be taken to that city. The registration books so transferred from the county seat shall be taken, in charge of a deputy of the court court clerk, to the last voting place in each precinct outside of an incorporated city, and to the city hall in each incorporated city, and there kept open by a deputy of the county court clerk during business hours for a number of days fixed by the county court clerk except where the city is one of the first, second or third class, in which case they shall be kept open whenever the registration books at the county seat are open.

(3) In fixing the length of time that the registration books are to be kept open in each place, other than the county seat or a city of the first, second or third class, the county court clerk shall divide the period beginning ten days after the general election and ending fifty-nine days before the next primary election into as many parts as there are places to which the registration books are to be taken, not including cities of the first, second or third class. The time allotted to each precinct or city shall be as nearly equal as practicable, except that cities of the fourth class may be allotted up to four times as much time as any precinct outside a city, and cities of the fifth class may be allotted up to twice as much time as any precinct outside a city. Fractional parts of a day may be allotted to a city or precinct, or added to the allotted number of full days, in dividing time.

(4) Before the registration books are opened in any precinct or city outside the county seat, the county court clerk shall advertise the exact time and place when the books shall be opened by publishing a notice once each week for three consecutive weeks in a newspaper of general bona fide circulation in the county, and by posting a conspicuous notice at the registration place for one week.

(5) During the time when the registration books are open at any precinct or city outside the county seat, all qualified voters residing in that precinct or city may appear there before the deputy of the county court clerk and register or change his political affiliation in the same manner as any qualified voter may register or change party affiliation before the county court clerk. The right of any qualified voter to register or change party affiliation in his own precinct or city during the time when the registration books are open there does not limit or abrogate his right to register or change his party affiliation at the county court clerk's office at any time when the registration books for his precinct or city are open there.

§ 2. House Bill Number 96 of the 1940 Regular Session of the General Assembly is repealed.

By Mr. Sparks.

H. B. 406. AN ACT to amend section 1 of Chapter 3 of the Acts of 1938, first extraordinary session, compiled as subsection 1 of section 2739g-2d of Baldwin's Kentucky Statute Service, May, 1938, relating to license fees for trucks and busses.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 3 of the Acts of 1938, first extraordinary session, compiled as subsection 1 of section 2739g-2d of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

Section one. (1) All motor vehicles, except those mentioned in section 2739g-2c and those engaged in hauling passengers for hire, are classified as trucks or busses, and the annual registration fee shall be as follows:

Subject to the exceptions contained in subsections (2) to

(5) of this section, those having a capacity of one thousand pounds or less, ten ($10.00) dollars; those having a capacity of more than one thousand pounds and up to two thousand pounds, twenty-two ($22.00) dollars; those having a capacity of more than two thousand pounds and up to three thousand pounds, forty ($40.00) dollars; those having a capacity of more than three thousand pounds and up to four thousand pounds, fifty-two ($52.00) dollars; those having a capacity of more than four thousand pounds and up to five thousand pounds, sixty-three ($63.00) dollars; those having a capacity of more than five thousand pounds and up to six thousand pounds, seventy-one ($71.00) dollars; those having a capacity of more than six thousand pounds and up to seven thousand pounds, ninety-three ($93.00) dollars; those having a capacity of more than seven thousand pounds and up to eight thousand pounds, one hundred and twelve ($112.00) dollars; those having a capacity of more than eight thousand pounds and up to nine thousand pounds, one hundred and thirty-eight ($138.00) dollars; those having a capacity of more than nine thousand and up to ten thousand pounds, one hundred and eighty-seven ($187.00) dollars; those having a capacity of more than ten thousand pounds, two hundred and thirty ($230.00) dollars; and twenty-five ($25.00) dollars for each additional ton or fraction of a ton in excess of ten thousand pounds. The applicant for license for a motor truck shall state in his application the capacity of the truck.

(2) Any farmer owning a truck having a capacity of three thousand pounds or less may have it registered as a farmer's truck and obtain a license for four dollars and fifty cents by filing with the county court clerk, in addition to other information required, an affidavit stating that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the capacity of three thousand pounds or less, that he has caused to be printed upon each side of the bed of the truck the words "Farmer's Truck" in red letters not less than three (3) inches in height,

and that during the next twelve months the truck will not be used for the transportation of anything for hire but will be used only in transporting persons, food, provender, feed and machinery used in operating his farm, and the products grown on the farm.

(3) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for four dollars and fifty cents by filing with the county court, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district or districts, and that he has caused to be printed on each side of the bed of the truck or bus and on the rear door or doors or part of the bed the words "School Bus" in letters at least six inches high and of a conspicuous color, and that the truck or bus will not be used during the next twelve months except for the purpose stated.

(4) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a church or place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for four dollars and fifty cents by filing with the county court, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a church or place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve months the truck or bus will not be used except for the purpose stated.

(5) Any person owning a truck on which an outfit for drilling water wells has been mounted and bolted to the chassis may register the truck and obtain a license for four dollars and fifty cents by filing with the county court clerk,

in addition to other information required, an affidavit that an outfit for the drilling of water wells as been mounted on and bolted to the chassis of the truck, and that during the next twelve months the truck will be used only for the transportation of the well drilling outfit.

By Mr. Brooks.

H. B. 407. AN ACT to provide for the supervision of tobacco warehouses and for the bonding of weighmen in tobacco warehouses and authorizing the Commissioner of Agriculture to conduct an investigation in selling costs of tobacco.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. DEFINITIONS: As used in this Act unless the content requires otherwise. (1) "Department" means the Department of Agriculture, Labor and Statistics. (2) "Warehouse" means any tobacco warehouse operating as a place of sale for tobacco in the Commonwealth. (3) "Warehousemen" means the owner, operator, manager, lessee or proprietor of a warehouse engaged in selling tobacco or their agents or employees. (4) "Commissioner" means the Commissioner of Agriculture, Labor and Statistics. (5) "Grower" means a bona fide producer of tobacco, either by himself or by tenant or share-cropper or hired person.

§ 2. WEIGHMEN TO BE BONDED: Warehouses operating within the confines of the Commonwealth shall submit to the Department a list of the names of all weighmen employed. Each weighman so listed shall furnish a bond in the amount of $500.00 to the Department for the faithful performance of duty and should any weighman knowingly and wilfully misrepresent or attempt to misrepresent the weight of any tobacco weighed by him on the warehouse floor for the

purpose of misleading the public, such bond shall be forfeited and the proceeds thereof paid into the State Treasury to be credited to the General Fund.

§ 3. ONLY BONDED WEIGHMEN ALLOWED TO WEIGH TOBACCO. No person other than the bonded weighmen, as provided in Section Two of this Act, shall be permitted to weigh tobacco for the purpose of sale at any tobacco warehouse.

§ 4. SPACING OF TOBACCO ON WAREHOUSE FLOORS REGULATED. Each warehouse shall provide a space of not less than thirty-three sq. ft. for the placing of tobacco on the floor, but in no event shall the aisle space between baskets of tobacco be less than eighteen inches in width. Warehouse floors shall be clearly marked for the spacing of baskets of tobacco, in accordance with the provisions of this Act.

§ 5. HEIGHT OF BASKET AND WEIGHT OF TOBACCO LIMITED. Baskets of tobacco when placed on warehouse floors for the purpose of sale shall not exceed five feet in height and each basket shall contain not more than seven hundred pounds of tobacco.

§ 6. NUMBER OF BASKETS SOLD LIMITED AND WAREHOUSE OPERATING DAY AND WEEK SET. The maximum rate of sales of baskets of tobacco on warehouse floors shall not exceed a rate of 360 baskets per hour nor shall more than 360 baskets be sold during any one hour. The operating day at every warehouse operating within the Commonwealth shall be limited to five actual selling hours and the operating week of every warehouse shall be limited to five actual selling days.

§ 7. WAREHOUSE OPENING DATE SET. Each warehouse operating within the Commonwealth shall open its doors for the receipt of tobacco for the use and benefit of such parties as may wish to purchase or sell tobacco therein on the

third Monday of each November following the enactment of this Legislation.

§ 8. RESERVATION OF FLOOR SPACE PROHIBITED. No warehouse or warehouseman shall reserve any floor space for any producer or consignor of tobacco, nor shall he discriminate against any grower of tobacco by failing to accord to such grower or growers all privileges and services extended to any other grower, nor shall any warehouse or warehouseman refuse to admit any tobacco to the warehouse floor so long as there is space available for the placing of said tobacco upon the floor for the purpose of sale.

§ 9. INVOLUNTARY COM-MINGLING OF TOBACCO PROHIBITED. The com-mingling of crops of tobacco on the warehouse floor while such tobacco is still the property of the grower shall be prohibited unless express permission for such com-mingling is obtained from the grower.

§ 10. WAREHOUSES NOT TO PREPARE TOBACCO FOR SALE ON SUNDAY. No warehouse shall unload, pack, handle or otherwise prepare tobacco for sale on Sunday, but nothing in this provision shall be construed as preventing growers from transporting tobacco to market to remain on the truck, or other means of conveyance, until such tobacco can be handled by warehouses on Monday morning.

§ 11. REBATES PROHIBITED. No warehouse or warehouseman shall give a rebate of any part of the warehouse charges or commissions to any person as an inducement for the purpose of influencing the sale of tobacco on any warehouse floor thereby discriminating against any grower or growers, nor shall any warehouseman pay or offer anything of value directly or indirectly for the delivery of tobacco to any warehouse by trucks or by any other conveyances whatsoever. No shall any warehouseman extend to any customer any special privilege or service not extended all customers on like terms and considerations. Nor shall

any warehousemen furnish any trucks or any other conveyance as an inducement to any person to sell tobacco at any particular warehouse. Nor shall any warehouseman finance or help to finance or secure the financing of any truck or any other means of conveyance for the purpose of thereby inducing the hauling of tobacco to any particular warehouse.

§ 12. SWORN STATEMENTS TO BE FURNISHED BY WAREHOUSES AND RELEASED BY THE DEPARTMENT. Each warehouse shall submit, under regulations promulgated by the Commissioner, a daily system of sworn statements to include the total number of pounds of tobacco sold, the total amount paid for such tobacco and the average for the day for the particular warehouse reporting. It shall be the duty of the Department to obtain such statements daily and release to the press a collaboration of the state average for the day and the average for each respective marketing center.

§ 13. DEPARTMENT TO ENFORCE ACT AND EMPLOY INSPECTORS. (1) The Department shall administer this Act and shall have general supervision over the sale of tobacco in the various warehouses throughout the Commonwealth.

(2) The Commissioner shall employ such inspectors and other employees as are necessary for the enforcement of this Act and the duties and compensation of such employees shall be fixed by the Commissioner in accordance with the provisions of the governmental reorganization act of 1936.

§ 14. DUTIES OF INSPECTORS. (1) The inspectors employed under the provisions of Section Thirteen of this Act, shall carry out a general inspection service of all warehouses in the state and it shall be the duty of such inspectors to strictly enforce the provisions of this Act.

(2) The inspectors employed by the Department shall inspect the weights, measures, weighing devices and measur-

ing devices of all tobacco warehouses and shall stamp such weights, measures, weighing devices and measuring devices with a mark which shall be placed in a conspicuous position on the device inspected and such stamp shall certify that such device has been inspected by an agent of the Department and that such device has been found to comply strictly with the laws of the State and of the United States and is in every sense exactly what it purports to be.

(3) Inspectors employed by the Department shall have the privilege of reweighing any tobacco at any warehouse at any time that such inspector is reasonably certain that such tobacco has been improperly weighed.

(4) It shall be the duty of the inspectors appointed by the Department to strictly enforce Sections 4810 to 4814C-3 of Carroll's Kentucky Statutes, 1936 edition.

§ 15. WAREHOUSES TO PAY LICENSE TAX FOR ADMINISTRATION OF ACT. (1) Each warehouse operating within the Commonwealth shall pay an annual license tax of Twenty-Five Dollars ($25.00) to provide funds for the administration of this Act, such license tax to be paid on each warehouse building operated as a place of sale for tobacco regardless of the number of such buildings owned by any individual, corporation, firm, or other type of management organization. Such license tax to be paid on the first day of July of each year following the enactment of this legislation the first of such payments to be payable on July 1st, 1940.

(2) The license shall be issued by the Clerk of the County Court of the County in which the warehouse is located, on license forms furnished by the Department, and the Clerk shall receive a fee of $1.00 for the issuance of said license such fee to be in addition to the $25.00 license tax.

(3) The Clerk of the County Court shall submit a report to the Department of all such licenses issued no later than the 1st day of September in each year following the

enactment of this legislation and shall remit the amount of license tax collected to the State Treasury at the same time that the report is submitted.

(4) The funds derived from the payment of license taxes shall be placed in a revolving fund in the State Treasury to be used by the Department to meet the expenses involved in enforcing the provisions of this Act.

§ 16. COMMISSIONER TO CONDUCT INVESTIGATION INTO SELLING COST. The Commissioner shall conduct an investigation during the years 1940 and 1941 for the purpose of determining the exact cost to the warehouse of selling tobacco in the various warehouses operating in the Commonwealth and shall submit a report covering the data so collected to the next regular session of the Legislature following the enactment of this law or to any agency of the said Legislature appointed for the purpose of receiving said report. The report of the Commissioner in addition to including the actual cost of sales to the warehouses in each marketing center within the State shall include the charges made by such warehouses to the growers in each of these centers during the years covered by the investigation. The Commissioner shall have the right to promulgate rules and regulations as to the manner in which such investigation shall be made and to appoint agents for the purpose of carrying out this investigation.

§ 17. PENALTIES: (1) Any person who violates Section Two of this Act or who violates Section Three of this Act or any owner, lessee, manager or operator of any tobacco warehouse who attempts by intimidation, force, bribery or by any other means to influence any weighman to falsely report the weight of any tobacco sold on the floors of said warehouse shall be fined not less than Five Hundred Dollars, nor more than One Thousand Dollars.

(2) Any person who violates Section Four of this Act or who violates Section Five of this Act or who violates

Section Six of this Act or who violates Section Ten of this Act or who violates Section Twelve of this Act or who in any way impersonates, hinders or obstructs the department or its inspectors in the performance of their official duties, or who knowingly and willfully violates any regulation of the Department or who refuses to pay the fee as provided in Section Fifteen of this Act, or who refuses to divulge the information necessary for the completion of the Commissioner's report or in any way hinders the Commissioner or his agents in obtaining the information for said report as provided in Section Sixteen of this Act, shall be fined not less than One Hundred Dollars nor more than Five Hundred Dollars or imprisoned in the county jail for not more than three months or both.

(3) Any person who violates Section Seven of this Act, or who violates Section Eight of this Act or who violates Section Nine of this Act or who violates Section Eleven of this Act shall be fined not less than Two Hundred Dollars nor more than Five Hundred Dollars.

§ 18. SECTIONS OF ACT DECLARED SEVERABLE. All laws or parts of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict. The provisions of this act are hereby declared to be severable, it being the intention of the General Assembly to enact each section separately, and if any of the sections, provisions, exceptions, or parts be held invalid for any cause the remainder of this act shall continue in full force and effect, it being the legislative intent, now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included therein.

By Mr. Dugan.

H. B. 408. AN ACT to clarify the License or Receipts taxation by municipalities of Building and Loan Associations organized under the laws of this State.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of thte Commonwealth of Kentucky:

Whereas, it is now and has been the policy of the State of Kentucky to exempt building and loan associations from income taxes and from local taxes upon capital stock, surplus undivided profits, notes, mortgages, or other credits, therefore, it is hereby enacted that no city or municipality in the Commonwealth of Kentucky, anything in their respective charters to the contrary notwithstanding, shall have the power to impose or collect any license or receipts tax upon any building and loan association organized and doing business in this State.

By Mr. Hickey.

H. B. 409. AN ACT relating to school taxes; providing a state school fund to be distributed to the various districts on a per capita basis; levying annually a state school tax of thirty cents on real estate, personalty, intangibles and franchises, and a state school tax of forty cents on bank shares; providing for the distribution and expenditure of the proceeds of such taxes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. In addition to the other state taxes now levied by law, there is levied annually a state school tax of thirty cents (30c) on each one hundred dollars ($100) of assessed valuation of all real estate, personalty, intangibles and franchises in the Commonwealth of Kentucky, and a state school tax of forty cents (40c) on each one hundred dollars ($100) of assessed valuation of all bank shares in the Commonwealth of Kentucky.

§ 2. Boards of education in the Commonwealth of Kentucky shall not levy a tax on bank shares for local school purposes.

§ 3. The taxes provided for in this Act shall be collected as other state taxes are collected. The collector of the taxes provided for in this Act shall be bonded as the collector of other state taxes is bonded, and shall be compensated in accordance with section 4399-41. The proceeds derived from the taxes provided for in this Act shall be in addition to the state per capita school monies now provided by law. The proceeds shall be paid into the State Treasury and shall be distributed to the boards of education in the Commonwealth by the Superintendent of Public Instruction on a per capita basis. The monies so distributed to the local boards of education shall be expended by said boards for the maintenance of public schools in their respective districts; but any board of education may, with the approval of the State Board of Education, expend part or all of the revenue derived from the taxes provided for in this Act for school purposes other than paying teachers' salaries.

By Mr. Vance.

H. B. 410. An Act defining and establishing the North and South boundary line between the counties of Barren and Edmonson as heretofore recognized.

Said bill is as follows, viz.:

WHEREAS, the North and South boundary line between the counties of Barren and Edmonson has never been officially designated or surveyed or the monuments definitely marked, and

WHEREAS, the North and South boundary line between the said counties has been recognized and established by the inhabitants of both counties for a period of more than one hundred years, and by all of the public officials of both coun-

ties and has been used in the administration of all of the public affairs of the counties, and the North and South boundary line has been well defined and accurately marked by common usage for said period of time, and

WHEREAS, the General Assembly desires to give official recognition to the North and South boundary line as so established in order that no confusion may arise in the future, Now Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the North and South boundary line between the county of Barren and the county of Edmonson be and the same is hereby fixed, determined, defined, established and confirmed as follows:

"Beginning at a point 30 poles southward from the Dripping Springs Road, thence northward a straight line to the Dixie Highway (U. S. 31 W.) at the end of the concrete pavement, which said line crosses the Dripping Springs Road 1,800 feet westward from Bellamy's Cross Road; thence a straight line, passing through the intersection of the Cave City–Mammoth Cave Road and the road leading to C. C. C. Camp No. 2, to the Hart County line, or to an extension of same."

By Mr. Vance.

H. B. 411. An Act relating to the taking of depositions, and amending section 582 of the Civil Code of Practice.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 582 of the Civil Code of Practice is amended to read as follows:

582. (1) Where a deposition is taken by an officer in

shorthand after the witness has been duly sworn before the officer, the officer may thereafter transcribe it on a typewriter without having the witness subscribe to it unless a party to the action requests the officer in writing that the witness subscribe to it. If such request is made, the officer shall transcribe the deposition and the witness shall subscribe to the transcription in the presence of the officer, and the witness may claim attendance at both the taking of the deposition and at the time he subscribes to it.

(2) If the officer does not take the depositions in shorthand:

(a) The officer shall after swearing the witness write the depositions in the presence of the witness and the witness shall subscribe to it in the presence of the officer, or

(b) The deposition shall be written and subscribed by the witness in the officer's presence.

(3) The officer taking the deposition shall make a certificate thereto setting forth in detail the manner in which the deposition was taken, and shall state when and where the deposition was taken; that the witness was duly sworn before giving it; that it was taken in shorthand with or without the witness subscribing to same as the case may be, or that it was written and subscribed by the witness in the presence of the officer; and shall also state whether or not either of the parties, and, if either, which of them, was present in person or by agent or attorney during examination of the witness.

§ 2. WHEREAS, this Act will relieve the hardships that now exist in taking depositions an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

By Mr. Vance.

H. B. 412. An Act relating to the property and contracts of married women, and amending section 2128 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2128 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

A married woman may take, acquire and hold property, real and personal, by gift, devise, or descent, or by purchase, and she may in her own name, as if she were unmarried, sell and dispose of her personal property and may sell and dispose of her real estate in the same manner a husband may sell and dispose of his own personal property or real estate. She may make contracts and sue and be sued, as a single woman, and may rent out her real estate and collect, receive and recover in her own name the rents thereof and make contracts for the improvement thereof. A gift, transfer, or assignment of real or personal property between husband and wife shall not be valid as to third persons unless the same be in writing and acknowledged and recorded as deeds or mortgages are required by law to be acknowledged and recorded; but the recording of any such writing shall not make valid any such gift, transfer, or assignment which is fraudulent or voidable as to creditors or purchasers.

By Mr. Vance.

H. B. 413. An Act repealing section 2127 of Carroll's Kentucky Statutes, 1936 Edition and defining the property rights and contractual liability of the wife.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2127 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Marriage shall give to the husband, during the life of the

wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage relation, the wife shall hold and own all her estate to her separate and exclusive use and free from the debts, liabilities or control of her husband and shall hold and own all her estate the same as the husband and may sell, convey, mortgage, lease, rent, manage and control same in the same manner as her husband, and her estate shall be liable for her debts, liabilities and responsibilities, either direct or indirect, contracted or incurred before and after marriage, and all obligations signed by her as surety shall have the same force and effect as that of a femme sole, and she shall have the same right and privilege to sell or convey property from herself direct to her husband without the intervention of a trustee.

By Mr. Vance.

H. B. 414. AN ACT relating to the sale, mortgage and exchange of real estate belonging to infants and persons of unsound mind, and amending section 2150a of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2150a of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The guardian of an infant or the committee of a person of unsound mind may sell, convey, mortgage or exchange any interest in real estate owned by his ward for such reasons and upon such terms and conditions as he shall deem for the best interest of such ward; but no such sale shall be consummated until the following has been complied with: An equitable action shall be filed, in the Circuit Court of the county where the land or portion thereof is located, by the guardian or

committee against the infant or person of unsound mind, either in vacation or during court term. The ward shall be duly summoned for ten days, if he resides in the county where the land or portion thereof is located, and if he resides in some other county or state, he shall be summoned for thirty days. The petition shall set forth the reasons for the sale, conveyance, mortgage or exchange and the terms thereof. The clerk of the circuit court shall appoint a guardian ad litem for the ward, and notify the guardian ad litem of his appointment. Proof shall then be taken by depositions duly filed or orally before the chancellor, and the proof shall thereafter be transcribed and filed in the record of the case. The proof herein provided for shall be taken on notice, or by agreement of the guardian ad litem, that the sale, conveyance or exchange is advisable and the price satisfactory or that a mortgage is for the best interest of the ward. The guardian ad litem shall make a defense or shall file a report stating that after a careful examination of the case he is unable to make a defense. The guardian or committee shall then execute bond with approved surety in an amount not less than double the purchase price of the land, the bond to read in substance as follows:

"We, ..., principal, and ..... sureties, bind ourselves to ..... that the said ..... as guardion or committee in a penal sum of $..... will faithfully discharge all his duties as such and will comply with the judgment and orders of the court in this section and will account for, pay and deliver unto the said ..... all money or property due or belonging to him or her when requested." In the event of an exchange of lands, no bond shall be required except where the guardian or committee receives consideration in addition to land accepted by him in such exchange, and no sale, conveyance, mortgage or exchange be made until the chancellor has filed with the clerk

of the court a written order approving the sale and bond, which order and bond shall be recorded by the clerk in the order book of the court.

§ 2. WHEREAS, it is considered that this Act will relieve the hardships that now exist, an emergency is declared to exist, and this Act shall take effect from and after its passage.

By Mr. Vance.

H. B. 415. AN ACT repealing Sections 506 and 2129 of Carroll's Kentucky Statutes, 1936 edition, and enacting in lieu thereof an Act authorizing conveyance by the wife, and requiring the acknowledgment and recording of such conveyances.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Sections 506 and 2129 of Carroll's Kentucky Statutes, 1936 edition, are repealed, and there is enacted in lieu thereof as follows:

A wife may sell and convey her lands and chattels real, but the conveyance must be acknowledged and recorded in the manner required by the Chapter on Conveyances.

By Mr. Shehan.

H. Res. 76. A RESOLUTION authorizing Jim Sears, administrator of the estate of Ernest Sears, to file suits against the Commonwealth of Kentucky to recover for expenses incurred by him individually and for the pains and suffering of Ernest Sears, and for his death.

Said Resolution is as follows, viz.:

WHEREAS, on the 16th day of September, 1936, one Ernest Sears was seriously injured from which he died by

being hit with a car driven over and along the state highway of Kentucky at or near Maeron in Harlan County while walk- across the said state highway; and,

WHEREAS, at the place where the said Ernest Sears was injured and from which injury he died there was a stiff curve and a steep grade; and,

WHEREAS, the Commonwealth of Kentucky had permitted and allowed old cars and other wreckage and debris to be deposited and piled on its right-of-way at the place of the injury to Ernest Sears and on the inside of said curve; and,

WHEREAS, the said old cars and wreckage obstructed the view of all parties using said highway and made the use of said view of all parties using said highway dangerous and unsafe; and,

WHEREAS, it was the duty of the Commonwealth of Kentucky to keep said highway safe for travel.

NOW, in order to determine, by action of the judiciary, the question of negligence causing said injuries as aforesaid,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Jim Sears, in his own right and name and as Administrator of the estate of Ernest Sears, deceased, be and he is hereby permitted and authorized to file and prosecute an appropriate action or actions against the Commonwealth of Kentucky for the purpose of determining the liability of the Commonwealth of Kentucky for such injuries to Ernest and for expenses occasioned thereby, and for mental and physical suffering caused thereby and for the death of said Ernest Sears.

Such action or actions may be brought at any time within two years from the time this resolution is passed, and in any Circuit Court of the Commonwealth of Kentucky which under the laws of Kentucky may have jurisdiction of such

matters, and may be joined in one action or with any action or actions pending wherein such circuit court have competent jurisdiction of the subject matter and parties.

Said suit for injuries to and death of Ernest Sears and expenses caused thereby and physical and mental suffering may be brought in his individual capacity and as Administrator of said estate and shall be for any amount of money not exceeding the sum of $10,000 and in the event any judgment is recovered by the said Jim Sears for the injuries to and death of Ernest Sears or the event same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the general fund.

Either party to said suit or suits may appeal from any judgment which may be entered therein as any other Civil suit and the case may be settled and adjusted by and with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil case may be settled or adjusted.

By Mr. Shehan.

H. Res. 77. A RESOLUTION authorizing Willie Ray, Silas Mullins and Tom Pugh, to file suit against the Commonwealth of Kentucky.

Said Resolution is as follows, viz.:

WHEREAS, on Saturday, June 17, 1939, the said Willie Ray, Silas Mullins and Tom Pugh, were each and all of them seriously and permanently injured while riding along the public highway on Clover Fork in Harlan County, Kentucky, by being forced from said road by a truck belonging to the Commonwealth of Kentucky;

NOW, in order to determine, by action of the judiciary, the question of negligence causing said injuries as aforesaid,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Willie Ray, Silas Mullins and Tom Pugh, in their own right and name, be and they are hereby permitted and authorized to file and prosecute appropriate action or actions against the Commonwealth of Kentucky, for the purpose of determining the liability of the Commonwealth of Kentucky, for such injuries.

Such action or actions may be brought at any time within two years from the time this resolution is passed, and in any Circuit Court of the Commonwealth of Kentucky which under the laws of Kentucky may have jurisdiction of such matters, or may be joined in one action or with any action or actions pending wherein Circuit Courts have competent jurisdiction of such matter and parties.

Said suit or suits for Willie Ray, Silas Mullins, and Tom Pugh for personal injuries by them shall be for any amount not exceeding the sum of $10,000 for each of said parties and in the event any judgment is recovered by said Willie Ray, Silas Mullins, or Tom Pugh, or either of them, for personal injuries received by them or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the general fund.

Either party to said suit or suits may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted by and with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other Civil Case may be settled or adjusted.

By Mr. King.

H. Res. 80. A RESOLUTION authorizing Ben J. Johnson, as administrator of the estate of Claude Dorsey,

deceased, to sue the Commonwealth of Kentucky, the Department of Welfare, either or both.

Said resolution is as follows, viz.:

WHEREAS, Claude Dorsey, an infant under eighteen years of age, then an inmate of the Kentucky Houses of Reform at Greendale, Fayette County, Kentucky, did, on or about August 24, 1939, suffer severe injuries which brought about his death on January 8, 1940; and

WHEREAS, the findings of the Coroner's jury and other evidence gained from investigation of said death do raise a strong presumption that said death was brought about and caused by the wrongful acts, gross negligence and carelessness of the agents, servants and employees of the Commonwealth of Kentucky then exercising care and control of the said Claude Dorsey; and

WHEREAS, the wrongful acts complained of herein occurred in Fayette County, Kentucky;

NOW, THEREFORE,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Ben J. Johnson, as administrator of the estate of Claude Dorsey, deceased, be authorized to bring and prosecute an action in the Fayette Circuit Court against the Commonwealth of Kentucky for damages resulting to the estate of Claude Dorsey, deceased, by reason of the death of said Dorsey through the wrongful acts, carelessness and negligence of the Commonwealth of Kentucky, its agents, servants and employees; and in the event any judgment is recovered, or settlement approved as herein set out, in said suit, the same shall be paid by the Finance Commissioner of the Commonwealth of Kentucky by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to said suit may appeal from any

judgment which may be rendered in the Fayette Circuit Court to the Court of Appeals of Kentucky and the case may be settled, compromised or adjusted with the consent of the Attorney General of the Commonwealth of Kentucky in the same way that any other civil case may be settled and adjusted.

By Mr. Barry.

H. Res. 81. RESOLUTION authorizing Louis P. Dugan to receive his per diem out of the legislative session fund for the regular 1940 session of the General Assembly.

Said resolution is as follows, viz.:

WHEREAS, the Hon. Louis P. Dugan was elected representative from the 56th legislative district, being in Jefferson County, Kentucky, on the 27th day of January, 1940, at a special election called by the Governor of the Commonwealth of Kentucky, and

WHEREAS, said special election was necessary because of the death of the late Adolph Wells who was elected representative from said district at a general election held in November, 1939, and

WHEREAS, on the first day of January, 1940, the said Adolph Wells died suddenly while on his way to Frankfort, Kentucky, to take the oath of office as representative from the said 56th legislative district, and

WHEREAS, the Hon. Louis P. Dugan as aforesaid was elected on the date above mentioned as representative from said district and immediately after said election qualified and took the oath of office and has since said time been serving as representative from said district, Now, Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the Hon. Louis P. Dugan be paid the per diem allowed to members of the House of Representatives for the

full term or session of the General Assembly, 1940, and his per diem shall be paid as is now provided by law for paying other members of the General Assembly.

By Mr. Bosworth.

H. Res. 82. A JOINT RESOLUTION authorizing the repayment to the National Bank of Middlesboro, Incorporated, the sum of $405.00 as a refund on an overpayment of taxes not due the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on December 31, 1938, the National Bank of Middlesboro, Incorporated, by and through its agents paid to the Commonwealth of Kentucky $953.53 in taxes for the tax year of 1938, on bank shares of a total value of $190,706.00, and

WHEREAS, the said tax payment should have been on $109,706.00, and

WHEREAS, the National Bank of Middlesboro, Incorporated, through its agents, made an erroneous representation as to the amount of taxes due, when in fact it does not owe the amount of taxes paid, and

WHEREAS, no remedy now exists at law which would enable the National Bank of Middlesboro, Incorporated, to recover $405.00, which represents the amount of the overpayment of taxes on bank shares erroneously represented at the valuation of $190,706.00, when in fact taxes were only due on bank shares amounting to $109,706.00, Now Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the National Bank of Middlesboro, Incorporated, is entitled to the sum of $405.00 for an over-payment of taxes on its bank shares for the taxable year of 1938 immediately after the passage of this Act.

The Commissioner of Finance is directed to draw his warrant in favor of the national Bank of Middlesboro, Incorporated, in the sum of $405.00, and upon its presentation to the Treasurer of the said warrant, he shall issue his check in the amount of $405.00 in favor of the National Bank of Middlesboro, Incorporated, said check being drawn on the General Fund.

By Mr. Thomas.

H. Res. No. 83. A JOINT RESOLUTION authorizing and permitting I. L. Story, administrator of the estate of Iza Loraine Mason, deceased, to sue the Commonwealth of Kentucky and the State Highway Commission, or either.

Said resolution is as follows, viz.:

WHEREAS, in the spring of 1939, while on Highway No. 35, near Rowena, Kentucky, Iza Loraine Mason, age six months, was drowned when the car in which she was riding ran off the end of a ferry which was operated by the employes of the State Highway Commission, and that death ensued shortly thereafter, and

WHEREAS, it is claimed that said negligence and gross carelessness of the agents, servants and employees of the State Highway Commission, in the operation and maintenance of the said ferry belonging to the State of Kentucky or the State Highway Commission, was the cause of said accident, and

WHEREAS, the estate of the said Iza Loraine Mason has been damaged because of said alleged carelessness and negligence of the said employees while in the discharge and conduct of the state's business. Now, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the said I. L. Story, administrator of the estate of Iza Loraine Mason, deceased, be, and he is hereby, author-

ized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either, in the Circuit Court of the county of his residence, for such damage as the estate of the said Iza Loraine Mason, deceased, may have suffered by reason of the death of the said Iza Loraine Mason, caused through the carelessness or negligence of the State Highway Commission, its agents or employees. Said suit shall be for any amount not to exceed $10,000.00, and in the event any judgment is recovered by said I. L. Story, administrator of the estate of Iza Loraine Mason, deceased, in said suit for the death of Iza Loraine Mason, or same is compromised or settled, same shall be paid by warrant drawn by the Commissioner of Finance on the State Treasury and paid out of the General Fund.

Either party to said suit may appeal from the judgment which may be entered therein as in any other civil suit and the case may be settled and adjudged with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced or reported from the Senate, as follows:

H. B. 359. To Committee on Public Utilities.

H. B. 362. To Committee on Cities of First Class.

H. B. 363. To Committee on Cities of Second Class.

H. B. 364. To Committee on Banks and Banking.

H. B. 365. To Committee on Revenue and Taxation No. 1.

H. B. 366. To Committee on Revenue and Taxation No. 1.

H. B. 367. To Committee on Revenue and Taxation No. 1.

H. B. 368. To Committee on Banks and Banking.

H. B. 369. To Committee on Kentucky Statutes No. 1.

H. B. 370. To Committee on Banks and Banking.

H. B. 371. To Committee on Kentucky Statutes No. 1.

H. B. 372. To Committee on Miscellaneous Affairs.

H. B. 373. To Committe on Fish and Game No. 1-A.

H. B. 374. To Committee on Roads and Highways No. 1.

H. B. 375. To Committee on Appropriations No. 1.

H. B. 376. To Committee on Kentucky Statutes No. 1.

H. B. 407. To Committee on Agriculture No. 1.

S. B. 23. To Committee on Kentucky Statutes No. 1.

H. Res. 69 To Committee on Claims.

S. B. 74. To Committee on County and City Courts.

S. B. 81. To Committee on Revenue and Taxation No. 1-A.

S. B. 120. To Committee on Education No. 1.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 72. AN ACT to regulate auctioneers, assistants at auction sales and auction marketing commissions, to create a state auction marketing board, and to amend Section 4618-120 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* (1) As used in this Act, unless the context requires otherwise:

"Auctioneer" means any individual who furnishes or contracts to furnish his own services or the services of others at an auction sale as the crier or to personally receive the bids and make known to the persons present the bids during the sale and declare who the highest bidder is.

§ 2. No person shall act, advertise, or assume to act as an auctioneer without procuring a license and paying an annual tax of ten dollars.

§ 3. All licenses shall be granted by the clerk of the county court of the county in which the applicant resides and shall be issued in writing and on forms to be prepared by the Department of Revenue and furnished to each county court clerk. The license shall include a convenient pocket card.

§ 4. All licenses shall be obtained and the license tax shall become due and payable on July 1st of each year and shall expire on June 30th of each year.

§ 5. The provisions of Sections 4, 5, 6 and 7 of House Bill No. 123 of the General Assembly of 1940 shall apply to licenses issued under this Act.

§ 6. Any auctioneer before doing business in any other county than that in which the license is issued shall present

his license to the county clerk of such other county who, upon being satisfied of its genuineness, shall endorse the word "Genuine" and affix his official signature thereto. A failure to have the license so endorsed before doing business or offering so to do, or the failure to exhibit the license for inspection by an officer authorized to inspect same when demanded shall subject the person so offending to the same penalty as though he had done such business without a license.

§ 7. Any person who violates Section 2 of this Act shall be fined not less than twenty-five dollars nor more than two hundred dollars for each offense.

Mr. Hunnicutt offered the following amendment to said bill, viz.:

Amend H. B. 72 on page 12, article 2, section 35 by striking out all of the words and language of article 2, section 35 on page 12 and all the words and language in lines 10, 11 and 12 on page 13 in their entirety of the printed bill.

Said amendment was agreed to.

Mr. Carter moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Florence moved that said bill be laid on the table.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on tomorrow at ten-thirty o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, FEBRUARY 15, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Father O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Harry W. Ennis	E. Hayes McMakin
J. Everett Bach	R. R. Ernst	Norris McPherson
H. T. Baker	Carlos Fallis	Stanley C. Moebus
G. M. Ballard	T. P. Fitzpatrick	John B. Mollette
Robert E. Barry	Cecil Florence	Davis Moore
Wm. T. Beard	Wayne Freeman	J. Lee Moore
Alvis S. Bennett	Eugene Gough	Joe T. Morgan
Rell Bevins	Van Y. Greene	C. Homer Neikirk
Sterling B. Blake	Ralph C. Hamilton	Carl D. Perkins
Douglas T. Bolling	Claude L. Hammons	B. W. Porter
J. F. Bosworth	T. H. Hickey	H. O. Porter
W. S. Brim	Clyde S. Howard	Kleber F. Price
C. J. Bronston	Chester Huffines	Hobart Rayburn
Gus A. Brooks	John M. Hunnicutt	Thomas Rigdon
Randolph A. Brown	W. H. Hunt	W. H. Riley
Haynes Carman	R. L. Jackson	Joe E. Robinson
Charles M. Carter	J. B. Jarboe, Jr.	Lyman Roll
James W. Chapman	Chas. X. Jones	Jack Savage
S. B. Chrisman	John S. Juett	Carl Scheben
John Coulter	William K. King	Leon J. Shaikun
John H. Cox	W. A. Lamkin, Jr.	Ray O. Shehan
Pink G. Curd	Robert E. Lee	Faust Y. Simpson
W. Q. Daniel	Harvey D. Leonard	Bruce Sloan
F. E. Daugherty	Edward Leslie	Otto Smither
Stanley S. Dickson	W. Paul Lyon	E. T. Sparks
Louis B. Dugan	C. C. May	G. C. Springate
Forest C. Easley	T. B. McConnell	J. Claude Stacy
D. E. Edwards	Frank C. McElwain	Ray J. Stengel

W. St. Clair Stuart	J. Wood Vance	Henry Ward
Henry Stewart	Walter R. Vansant	H. L. Waterfield
T. M. Swope	S. J. Wagner	Otis White
Otis C. Thomas	Porter Wallace	James H. Woods
Erna E. Tyra	Harry F. Walters	—98

Mr. Davis Moore moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Price moved that the privilege of the floor be extended to Mr. C. H. Wells.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Mr. Niel McWhorter.

Said motion was agreed to.

Mr. Neikirk moved that the privilege of the floor be extended to the Hon. B. J. Bethurum of Somerset, Kentucky.

Said motion was agreed to.

Mr. Daugherty moved that the privilege of the floor be extended to the Hon. T. C. Carroll.

Said motion was agreed to.

Mr. Lamkin moved that the privilege of the floor be extended to Mr. and Mrs. Max Lamkin of Meade County.

Said motion was agreed to.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Bevins of the Committee on Cities of the Fourth Class.

H. B. 127. An Act amending charters of cities of the fourth class, providing for the creation of a Civil Service Commission, etc.

By Mr. Fitzpatrick of the Committee on Public Health No. 1.

H. B. 346. An Act to regulate the manufacture and sale of canned dog and cat feed in Kentucky, defining same, providing for its labeling, etc

H. B. 315. An Act relating to Game and Fish and prohibiting the placing in any public water any substance which causes said water to be unfit for the support of aquatic life, etc.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 273. An Act to repeal, amend and re-enact Sec. 979b-10 Carroll's Kentucky Stautes, 1936 Edition, being a portion of chapter 30 of the Acts of 1936.

H. B. 181. An Act to repeal, amend and re-enact Sec. 2922 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, said section being a part of chapter 244 of the Acts of the 1893 General Assembly of Kentucky etc.

By Mr. Ward of the Committee on Cities of the Second Class.

H. B. 267. An Act relating to the unfair practices act; and amending and creating in the Department of Business Regulations a Division to be known as the Unfair Trade Practices Division.

With a Committee amendment thereto by way of Substitute therefor.

And without an expression of opinion.

By Mr. Shaikun of the Committee on Cities of the First Class.

H. B. 294. An Act empowering the Board of Trustees of a municipal university in a city of the first class to acquire land for the purposes of such university by purchase, gift or condemnation.

With the expression of opinion that said bills ought to pass with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed in the Calendar.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 129. An Act to repeal, amend and re-enact Sec. 1469 Carroll's Kentucky Statutes, relating to the changing of hours of election.

H. B. 128. An Act to repeal, amend and re-enact Sec. 155-3 Carroll's Kentucky Statutes, relating to the time of primary elections and place of holding same.

With the expression of opinion that said last named bills ought not to pass.

No motion having been made to advance said bills to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken by the House on said bills, it was ordered that said bills be not read at length the first time and so said bills were rejected.

The House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. B. 331. An Act relating to school districts and subdistricts, and amending Sections 4399-6 and 4399-7 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 272. An Act to amend Sec. 2437 of Carroll's Kentucky Statutes, 1936 edition, relating to the preservation and protection of public books.

H. B. 342. An Act to repeal, amend and re-enact Sec. 2857, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to special park police for parks, etc.

H. B. 354. An Act pertaining to the use of police radios and providing who may and may not use and have in their possession etc.

H. B. 102. An Act requiring the Commonwealth of Kentucky to furnish and pay for certain county record books.

With an amendment thereto by way of Substitute therefor.

H. B. 249. An Act to regulate the issual of in transit license plates, and the fees to be charged, etc.

H. B. 165. An Act to regulate the caravaning of motor vehicles upon the public highways.

With the expression of opinion that said bills ought to pass, with the exception of those specifically set out above.

H. Res. 31. Resolution for the payment to Hon. A. W. Leach, sheriff of Russell county, the sum of $73.47.

H. Res. 55. Resolution to pay Mrs. Lilliam P. Wells the per diem of her late husband Adolph Wells.

H. B. 264. An Act to license the operation of oil wagons, selling or transporting petroleum, gasoline, lubricating or other oils etc.

With a Committee Amendment thereto by way of Substitute therefor.

H. B. 265. An Act to appropriate additional funds out of the General Expenditure fund to the Division of Publicity of the Department of Conservation.

With a Committee Amendment thereto by way of Substitute therefor.

H. B. 163. An Act authorizing independent school districts to annex county subdistricts or parts thereof.

H. B. 235. An Act relating to alcoholic beverages, repealing, amending and re-enacting Sec. 75 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

H. B. 356. An Act relating to revenue and taxation and repealing and re-enacting Sec. 4214a-13, 4214a-15 and 4214a-17, Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Ordered that said bills and resolutions be read the second time.

The Constitutional provision as to the second reading of said bills and resolutions at length being dispensed with, said bills and resolutions were read the second time by their titles only.

Ordered that said bills and resolutions be placed in the Orders of the Day.

The House resumed consideration of the unfinished business of yesterday, to-wit: a bill entitled:

H. B. 72. An Act to regulate auctioneers, assistants at auction sales and auction marketing commissions, etc.,

With an amendment thereto, as adopted on yesterday.

(For bill and amendment see House Journal of yesterday.)

Without objection the motion as made on yesterday by Mr. Florence to lay said bill on the table, was withdrawn.

Mr. Hammons moved that the vote by which the Previous Question was ordered on yesterday, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Carter offered the following amendment to said bill, viz.:

Amend H. B. 72 by striking that portion of the bill beginning with line 7 of section 1 and ending with line 12 of section 35 and inserting in lieu thereof the following:

"Section 2. No person shall act, advertise, or assume to act as an auctioneer without procuring a license and paying an annual tax of ten dollers.

Section 3. All licenses shall be granted by the clerk of the county court of the county in which the applicant resides and shall be issued in writing and on forms to be prepared by the Department of Revenue and furnished to each county court clerk. The license shall include a convenient pocket card.

Section 4. All licenses shall be obtained and the license tax shall become due and payable on July 1st of each year and shall expire on June 30th of each year.

Section 5. The provisions of sections 4, 5, 6 and 7 of

House Bill No. 123 of the General Assembly of 1940 shall apply to licenses issued under this act.

Section 6. Any auctioneer before doing business in any other county than that in which the license is issued shall present his license to the county clerk of such other county who, upon being satisfied of its genuineness, shall endorse the word "Genuine" and affix his official signature thereto. A failure to have the license so endorsed before doing business or offering so to do, or the failure to exhibit the license for inspection by an officer authorized to inspect same when demanded shall subject the person so offending to the same penalty as though he had done such business without a license.

Section 7. Any person who violates Section 2 of this Act shall be fined not less than twenty-five dollars nor more than two hundred dollars for each offense.

Said amendment was agreed to.

Mr. Carter moved that the Clerk of this House be directed to have printed said bill with amendments incorporated therein for the convenience of the members of the House.

Said motion was agreed to.

Mr. Carter moved that said bill be made a Special Order of the Day for Wednesday, February 21, at two o'clock P. M.

Said motion was agreed to.

Mr. Vance moved that the House do now take up for consideration from the Clerk's desk, a bill entitled:

KENTUCKY SOIL CONSERVATION DISTRICTS LAW

H. B. No. 80. An Act to declare the necessity of creating governmental subdivisions of the State, to be known as "soil

conservation districts", to engage in conserving soil resources and preventing and controlling soil erosion; to establish the State soil conservation committee, and to define its powers and duties; to provide for the creation of soil conservation districts; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to adopt programs and regulations for the discontinuance of land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcement of such programs and regulations; to provide for establishing boards of adjustment in connection with land-use regulations, and to define their functions and powers; to provide for the discontinuance of soil conservation districts; and for other purposes.

With Committee amendments thereto.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Said bill reads as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. SHORT TITLE.—This act may be known and cited as the soil conservation districts law.

§ 2. LEGISLATIVE DETERMINATIONS, AND DECLARATION OF POLICY.—It is hereby declared, as a matter of legislative determination—

A. The condition.—That the farm and grazing lands of the Commonwealth of Kentucky are among the basic assets of the Commonwealth of Kentucky, and that the preservation of these lands is necessary to protect and promote the health,

safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this Commonwealth by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

B. The consequences.—That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in

the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death; improverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming, and grazing.

C. The appropriate corrective methods.—That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of policy.—It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base,

protect public lands, and protect and promote the health, saftey, and general welfare of the people of this Commonwealth.

§ 3. DEFINITIONS.—Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a governmental subdivision of this Commonwealth, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Committee" or "State soil conservation committee" means the agency created in section 4 of this act.

(4) "Petition" means a petition filed under the provisions of subsection A of section 5 of this act for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 6 of this act to nominate candidates for the office of supervisor of a soil conservation district.

(6) "State" means the Commonwealth of Kentucky.

(7) "Agency of this State" includes the government of this Commonwealth and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this Commonwealth.

(8) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this State, the Government of the United

States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land owner" or "owner of land" includes any person, firm or corporation who shall hold legal or equitable title to any lands lying within a district organized under the provisions of this act.

(11) "Land occupier" or "occupier of land" includes any person, firm, or corporation other than the owner who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as lessee, renter, tenant, or otherwise.

(12) "Due notice" means notice published at least twice, with an interval of at least 6 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

§ 4. STATE SOIL CONSERVATION COMMITTEE

A. There is hereby established, to serve as an agency of the State and to perform the functions conferred upon it in this act, the State soil conservation committee. The committee shall consist of a chairman and four additional members. The following shall serve, ex officios, as members of the committee: the State Commissioner of Agriculture, the State Commissioner of Conservation, the State Director of Extension, the State Director of Vocational Education, or the designated representatives of the above mentioned officials, and a representative farmer appointed by the

Governor for a term of four years. The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above-mentioned members as an advisory member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

B. The State soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the seat of the State government and shall be furnished with the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning, shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

C. The committee shall designate its chairman, and may, from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their

duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements of funds.

D. In addition to the duties and powers hereinafter conferred upon the State soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such distrcits and co-operation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this Commonwealth, in work of such districts.

(5) To disseminate information throughout the Commonwealth concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

§ 5. CREATION OF SOIL CONSERVATION DISTRICTS.

A. Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district, and within such counties as maintain a full time county agricultural extension agent, may file a petition with the State soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth.

(1) The proposed name of said district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generaly accurate;

(4) A request that the State soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State soil conservation committee may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All owners and

occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in section 2 of this act. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function

in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After 6 months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of ....., ..., and ....." and "Against creation of a soil conservation district of the lands below described and lying in the county(ies) of ....., and ....." shall appear with a square following each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All owners of lands lying within the boundaries of the territory, as determined by the State soil con-

servation committee, shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote.

D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the defined boundaries, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land owners and occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such

district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the State soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in his act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before

an officer authorized by the laws of this Commonwealth to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this Commonwealth or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this Commonwealth, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement,

with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this Commonwealth and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the Commonwealth, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

G. After six (6) months shall have expired from the date of entry of a determination by the State soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

H. Petitions for including additional territory within an existing district may be filed with the State soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land owners in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the land owners of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all owners of land lying within the proposed additional area shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

§ 6. ELECTION OF THREE SUPERVISORS FOR EACH DISTRICT.—Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State soil conservation committee to nominate candidates for supervisors of such district. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by twenty-five (25) or more owners of lands lying within the boundaries of such district. Land owners may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in a square before any three names to indicate the voter's preference. All owners of lands lying within the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The committee shall pay all the expenses of such election,

shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

§ 7. APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS.—The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided hereinabove. The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of 1 and 2 years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall, respectively, have been selected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

The supervisors may employ such employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require or may employ their own counsel and legal staff. The supervisors may delegate to their

chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the State soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements of funds. Any supervisor may be removed by the State soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

§ 8. POWERS OF DISTRICTS AND SUPERVISORS.—A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such

surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this Commonwealth or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this Commonwealth or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 2 of this act, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owners and occupiers of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any owner or occupier of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such

conditions as the supervisors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(6) To make available, on such terms as it shall prescribe, to land owners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land owners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries

undertaken by the United States or any of its agencies, or by this State or any of its agencies, to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners and occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

§ 9. ADOPTION OF LAND-USE REGULATIONS.

Whenever the supervisors of any district determine that uncontrolled soil erosion on some lands within the district is causing damage to other lands within the district, they shall have authority to propose regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners and occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such

referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All owners of lands within the district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least two-thirds of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by two-thirds of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations, proposed after the supervisors have determined that uncontrolled soil erosion on some lands within the district is causing damage to other lands within the district, and prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of the district, shall have the force and effect of law in the said district.

Any owner of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all owners and occupiers of lands lying within the district.

§ 10. ENFORCEMENT OF LAND USE REGULATIONS.

The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 9 of this act are being observed. The supervisors are further authorized to provide by ordinance that any land owner or occupier who shall sustain damages from any violation of such regulations by any other land owner or occupier may recover damages at law from such other land owner or occupier for such violation.

§ 11. PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS.

Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 9 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county within which the lands of the defendant may lie a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land owner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the

costs and expenses thereof, with interest, from the defendant. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of 5 per centum per annum, from the defendant. In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant.

The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of 5 per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

§ 12. BOARD OF ADJUSTMENT.

A. Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 9 hereof, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of 1, 2 and 3 years, respectively. The members of each such board of adjustment shall be appointed by the State soil conservation committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other offce. The members of the board of adjustment shall receive compensation for their services at the rate of ..... dollars ($.....) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with the provisions of any ordinance adopted pursuant to this section. The board shall designate

a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

C. Any land owner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by supervisors, and praying the board to authorize a variance for the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the State soil conservation committee. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State soil conservation committee shall have the right to appear and be heard at such hearing. Any owner or occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the

lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

D. Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district, or any intervening party, may obtain a review of such order in the circuit court for the county within which the lands of the petitioner may lie, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board and thereupon the party seeking review shall file in the court a transcript of the entire record in the proceedings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if

supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court.

§ 13. COOPERATION BETWEEN DISTRICTS.—The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

§ 14. STATE AGENCIES TO COOPERATE.—Agencies of this Commonwealth which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the Commonwealth, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 9

of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

§ 15. DISCONTINUANCE OF DISTRICTS.—At any time after five (5) years after the organization of a district under the provisions of this act, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the State soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil conservation district to be here inserted)" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined

boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the district, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land owners and occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the State soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state

for the discontinuance of such district, and shall transmit with such application the certificate of the State soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not effect the lien of any judgment entered under the provisions of section 11 of this act, nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of this district or supervisors as to such liens and actions.

The State soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in five (5) years.

§ 16. SEPARABILITY CLAUSE.—If any provision of this act, or the application of any provision to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 17. INCONSISTENCY WITH OTHER ACTS.—Insofar as any of the provisions of this act are inconsistant with the provisions of any other law, the provisions of this act shall be controlling.

Said Committee amendments are as follows, viz.:

1. Amend H. B. 80 on page 6, line 26 through line 28, by striking out the following:

"It shall be supplied with suitable office accommodations at the seat of the state government, and shall be furnished with the necessary supplies and equipment."

Said amendment was agreed to.

2. Amend H. B. 80 on page 22, line 31 following the word "thereof" and preceding the word "and" by inserting the following:

"including provision for election officers representing those favoring and opposing the ordinance",

Mr. J. Lee Moore offered the following amendment in lieu of the Committee Amendment No. 2, viz.:

Amend H. B. 80 by striking therefrom all the language beginning with the second word in line 101 on page 11 continuing through lines 102, 103 and 104 and ending with a period at the end of line 104, and at the point where said language is stricken, insert the following:

"Provision shall be made in the holding of all elections authorized under this Act for those opposing the establishment of a district or the adoption of ordinances or any land

use, or other regulations, to have equal representation with the proponents of the measure in the registration and determination of eligibility of voters, in the officers of election and in the holding of the elections and in the custody of the ballots and in the canvassing and certifying of the returns.

Said amendment as offered by Mr. J. Lee Moore in lieu of Committee Amendment No. 2, was then agreed to.

3. Amend H. B. 80 by striking out the following, on page 22, line 41: the words "two-thirds" and by inserting in lieu therefor the words "ninety per cent"

Said amendment was agreed to.

4. Amend H. B. 80 by striking out on page 22, line 39 the words "two-thirds" and inserting in lieu therefor the words "ninety per cent"

Said amendment was agreed to.

Mr. Vance offered the following amendments to said bill, viz.:

5. Amend H. B. 80 on page 18, section 8, lines 13 and 14 by striking out the words "the government of this Commonwealth or any of its agencies, or with the United States or any of its agencies;" and inserting in lieu therefor "the Kentucky Agricultural Experiment Station, and pursuant to a co-operative agreement entered into between the Kentucky Agricultural Experiment Station and such district"

6. Amend H. B. 80 on page 18, sec. 8 line 15 by striking out subsection (2) of section 8 commencing on line 15 with the words "To conduct demonstrational projects" and ending one line 24 with the word "controlled"

7. Amend H. B. 80 on page 18, sec. 8, line 29 by inserting following the word "the" the words "consent and"

8. Amend H. B. 80 on page 30, sec. 14, line 10 by striking out the words "shall be given free access to" and inserting in lieu thereof "may, with the consent of such agencies of this Commonwealth,"

9. Amend H. B. 80 on page 6, sec. 4, line 23, by striking out the comma after the word "require" and by striking out the words "or may employ its own counsel and legal staff" and inserting a period after the word "require"

10. Amend H. B. 80 on page 6, sec. 4, line 5 by striking out the word "officiis" and inserting in lieu thereof the word "officio"

11. Amend H. B. 80 on page 17, Sec. 7, line 42 by striking out the word "malfeance" and inserting in lieu thereof the word "malfeasance"

12. Amend H. B. 80 on page 25, sec. 11, line 27 by inserting a comma (,) after the word "direct"

13. Amend H. B. 80 on page 10, Sec. 5, line 56 by inserting a comma (,) after the word "firm"

14. Amend H. B. 80 on page 5, Sec. 3, line 29 by inserting a comma (,) after the word "firm"

15. Amend H. B. 80 on page 33, sec. 15, line 78 by striking out the word "dsitrict" and inserting in lieu thereof the word "district"

16. Amend H. B. 80 on page 20, Sec. 8, line 84 by striking out the word "judically" and inserting in lieu thereof the word "judicially"

17. Amend H. B. 80 on page 10, sec. 7, line 32 by striking out the word "occupier" and inserting in lieu thereof the word "occupiers"

18. Amend H. B. 80 on page 17, sec. 7, line 42 by striking out the word "desigat" and inserting in lieu thereof the word "designate"

19. Amend H. B. 80 on page 11, Sec. 5, line 86 by striking out the word "before" and inserting in lieu thereof the word "following" and on page 11, sec. 5, line 87 by striking out the word "before" and inserting in lieu thereof the word "following"

20. Amend H. B. 80 on page 6, sec. 4, line 7 by striking out the words "State Director of Extension" and inserting in lieu thereof the words "director of the Kentucky Experiment Station."

Said amendments were each and severally agreed to.

Mr. Cox offered the following amendment to said bills, viz.:

Amend H. B. 80 as follows: Strike from H. B. 80 every line, word and syllable beginning with line 1 and the character for section and the figures nine (9) and the words "The adoption of land use regulations", beginning about the middle of page 21 and continuing through said section 9 and its subsections and section 10, 11, 12 and its subsections to section 13 and ending with line 109 on page 29 of the printed bill.

Add to said bill the following:

Section 9. The participation in carrying out the provisions of this Act shall be purely voluntary on the part of the landowner, and his consent shall be procured before his lands may be entered or anything may be done upon them; and no landowner shall be bound or required to pay any part of the cost of carrying the provisions of this Act into effect or of any change, alteration or improvement of his lands and premises, or anything for any other purpose, unless he shall consent thereto in writing specifying the amount with which his is to be charged duly entered into before the work or thing for which he is to be charged has been commenced.

Change the section number 13 to section No. 10, the section No. 14 to Section No. 11, Section No. 15 to Section No. 12,

Section No. 16 to Section No. 13 and Section No. 17 to Section No. 14.

Said amendment was disagreed to.

The yeas and nays being required thereon by Messrs. Cox and Ward, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	Clyde S. Howard	Hobart Rayburn
Wm. T. Beard	John M. Hunnicutt	W. H. Riley
C. J. Bronston	J. B. Jarboe, Jr.	Lyman Roll
Haynes Carman	William K. King	Carl Scheben
S. B. Chrisman	W. A. Lamkin, Jr.	Fay O. Shehan
John H. Cox	Harvey D. Leonard	Otto Smither
Stanley S. Dickson	C. C. May	E. T. Sparks
Forest C. Easley	T. B. McConnell	Henry Stewart
D. E. Edwards	Stanley C. Moebus	Porter Wallace
R. R. Ernst	John B. Mollette	Otis White
Carlos Fallis	Joe T. Morgan	James H. Woods
T. H. Hickey	C. Homer Neikirk	—35

Those who voted in the negative were—

C. W. Anderson Jr.	Louis B. Dugan	Frank C. McElwain
G. M. Ballard	Harry W. Ennis	E. Hayes McMakin
Robert E. Barry	T. P. Fitzpatrick	Norris McPherson
Alvis S. Bennett	Cecil Florence	Davis Moore
Rell Bevins	Wayne Freeman	J. Lee Moore
Sterling B. Blake	Eugene Gough	Carl D. Perkins
Douglas T. Bolling	Van Y. Greene	B. W. Porter
J. F. Bosworth	Ralph C. Hamilton	H. O. Porter
W. S. Brim	C. L. Hammons	Kleber F. Price
Gus A. Brooks	Chester Huffines	Thomas Rigdon
Randolph A. Brown	R. L. Jackson	Joe E. Robinson
John Coulter	Chas. X. Jones	Jack Savage
Pink G. Curd	John S. Juett	Leon J. Shaikun
W. Q. Daniel	Edward Leslie	Faust Y. Simpson
F. E. Daugherty	W. Paul Lyon	Bruce Sloan

G. C. Springate	Otis C. Thomas	Henry Ward
J. Claude Stacy	Erna E. Tyra	H. L. Waterfield
Ray J. Stengel	J. Wood Vance	Mr. Speaker
W. St. Clair Stuart	S. J. Wagner	
T. M. Swope	Harry F. Walters	—58

Mr. Bennett offered the following amendment to said bill, viz.:

Amend H. B. 80 in line 26 and 27 on page 17 by striking the following: "or may employ their own counsel and legal staff" and insert a period after the word "required" in line 26 on page 17.

Said amendment was agreed to.

Mr. Dixon moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson Jr.	Rell Bevins	Gus A. Brooks
J. Everett Bach	Sterling B. Blake	Randolph A. Brown
G. M. Ballard	Douglas T. Bolling	John Coulter
Robert E. Barry	J. F. Bosworth	Pink G. Curd
Alvis S. Bennett	W. S. Brim	W. Q. Daniel

F. E. Daugherty	Chas. X. Jones	Jack Savage
Louis B. Dugan	Edward Leslie	Leon J. Shaikun
Harry W. Ennis	W. Paul Lyon	Faust Y. Simpson
T. P. Fitzpatrick	Frank C. McElwain	Bruce Sloan
Cecil Florence	Norris McPherson	Ray J. Stengel
Wayne Freeman	Davis Moore	T. M. Swope
Eugene Gough	J. Lee Moore	Erna E. Tyra
Van Y. Greene	Carl D. Perkins	J. Wood Vance
Ralph C. Hamilton	B. W. Porter	S. J. Wagner
Claude L. Hammons	H. O. Porter	Harry F. Walters
Chester Huffines	Kleber F. Price	Henry Ward
R. L. Jackson	Joe E. Robinson	H. L. Waterfield

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Those who voted in the negative were—

H. T. Baker	J. B. Jarboe, Jr.	Lyman Roll
C. J. Bronston	John S. Juett	Carl Scheben
Haynes Carman	William K. King	Ray O. Shehan
S. B. Chrisman	W. A. Lamkin, Jr.	Otto Smither
John H. Cox	Robert E. Lee	E. T. Sparks
Stanley S. Dickson	Harvey D. Leonard	G. C. Springate
Forest C. Easley	T. B. McConnell	Henry Stewart
D. E. Edwards	Stanley C. Moebus	W. St. Clair Stuart
R. R. Ernst	John B. Mollette	Otis C. Thomas
Carlos Fallis	Joe T. Morgan	Porter Wallace
T. H. Hickey	C. Homer Neikirk	Otis White
John M. Hunnicutt	Hobart Rayburn	James H. Woods
W. H. Hunt	W. H. Riley	

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Mr. Vance offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 80 by striking out the word "subdivision" and inserting in lieu therefor the word "subdivisions"

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Neikirk moved that the privilege of the floor be extended to Mr. A. H. Freer of Somerset, Kentucky.

Said motion was agreed to.

Mr. Ward moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

Thirty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. Joe E. Robinson moved that the privilege of the floor be extended to Mr. John C. Robinson and Judge Sands.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Hon. W. M. Watkins, Misses Millie Popplewell, Martha W. Allen, Aileen Ashley and Elizabeth Lee Watkins.

Said motion was agreed to.

Mr. Shaikun moved that the privilege of the floor be extended to Mr. Melvin Peterson, Todd Peterson and Robert Cohen.

Said motion was agreed to.

Mr. Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. McMakin moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 215. AN ACT authorizing independent school districts to annex county subdistricts or parts thereof, or county districts to annex parts of independent districts, and providing for the repeal of Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes, Carroll's 1939 Supplement.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any independent school district may annex and unite as a part of the independent school district any county subdistrict, subdistricts, or parts of subdistricts lying adjacent to the independent school district, or any county district may annex a part of an independent district either lying within, partly with, or adjacent to the county district, subject to the following provisions:

When a part of the county district is to be annexed to an independent district, the board of education of the independent school district shall secure the approval of the county board of education and of the Superintendent of

Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the independent school district to that of the average per census pupil wealth of the county school district as a whole and the effect of the proposed territorial loss of the county district on the educational program of such county school district.

If and when such approval has been secured in writing, the board of education of the independent school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such independent school district. If said proposal shall be adopted by a majority vote of the legal voters resident within the territory to be added to the independent district, such territory shall become a part of the independent school district.

When a part of the independent district is to be annexed to the county district, the board of education of the county school district shall secure the approval of the board of education of the independent school district and of the Superintendent of Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the county school district, to that of the average per census pupil wealth of the independent school district and the effect of the proposed territorial loss of the independent school district on the educational program of said independent school district.

If and when such approval has been secured in writing, the board of education of the county school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such county school district. If said proposal shall be adopted by a majority of the legal voters resident within the territory to be added to the county school district, such territory shall become a part of the county school district.

Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes, Carroll's 1939 Supplement, is hereby repealed.

Mr. Juett moved the Previous Question

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	F. E. Daugherty	W. H. Hunt
J. Everett Bach	Louis B. Dugan	R. L. Jackson
G. M. Ballard	Forest C. Easley	Chas. X. Jones
Robert E. Barry	D. E. Edwards	John S. Juett
Wm. T. Beard	R. R. Ernst	William K. King
Alvis S. Bennett	Carlos Fallis	Robert E. Lee
W. S. Brim	Thos. P. Fitzpatrick	C. C. May
Gus A. Brooks	Wayne Freeman	Frank C. McElwain
Randolph A. Brown	Eugene Gough	E. Hayes McMakin
Haynes Carman	Van Y. Greene	Norris McPherson
Charles M. Carter	Ralph C. Hamilton	Stanley C. Moebus
James W. Chapman	Claude L. Hammons	John B. Mollette
S. B. Chrisman	T. H. Hickey	Davis Moore
John Coulter	Clyde S. Howard	Joe T. Morgan
John H. Cox	Chester Huffines	C. Homer Neikirk

Carl D. Perkins	Carl Scheben	Henry Stewart
B. W. Porter	Leon J. Shaikun	W. St. Clair Stuart
H. O. Porter	Ray O. Shehan	Erna E. Tyra
Kleber F. Price	Bruce Sloan	J. Wood Vance
Thomas Rigdon	Otto Smither	Porter Wallace
W. H. Riley	E. T. Sparks	Henry Ward
Joe E. Robinson	Grover C. Springate	Otis White
Lyman Roll	Ray J. Stengel	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Juett moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 82. AN ACT amending, repealing and re-enacting Sections 125a-1, 125a-2, 125a-3, 125a-4, 125b-1, 125b-2, 125b-3, and 125b-4, Kentucky Statutes, Carroll's 1936 Edition; being an act to create and fixing the salary of a third assistant Commonwealth's Attorney in counties of this Commonwealth having a population of Two hundred thousand or over; and being an act to create and fixing the salary of a fourth district detective to the Commonwealth's Attorney in counties of this commonwealth having a population of One hundred and fifty thousand or over.

With a Committee amendment thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 125a-1, 125a-2, 125a-3, 125a-4, 125b-1, 125b-2, 125b-3, and 125b-4, Kentucky Statutes, Carroll's 1936

Edition, be amended, repealed and re-enacted so that said section when so amended, repealed and re-enacted shall read as follows:

125a-1. Assistants to Commonwealth's Attorney in Jefferson County.—That the offices of first assistant Commonwealth's attorney and second assistant Commonwealth's attorney and third assistant Commonwealth's attorney in counties having a population of two hundred thousand or over are hereby created.

125a-2. Appointment, removal, salary. — Said first assistant Commonwealth's attorney and said second assistant Commonwealth's attorney and said third assistant Commonwealth's attorney shall be appointed by the Commonwealth's attorney for a term of four years, but they shall be subject to removal at any time by the Commonwealth's attorney. The salary of the first assistant Commonwealth's attorney shall be four thousand dollars per annum, and the salary of the second assistant Commonwealth's attorney shall be four thousand dollars per annum, and the salary of the third assistant Commonwealth's attorney shall be four thousand dollars per annum; payable out of the county levy in equal monthly installments.

125a-3. Qualifications, powers, duties.—Each of the assistant Commonwealth's attorneys provided for by this act shall be a citizen of Kentucky and shall at the time of appointment reside in this district in which the Commonwealth's attorney is elected and shall be a licensed practicing lawyer. Said assistant Commonwealth's attorney shall have the same powers and perform the same duties that Commonwealth's attorney now have and perform, subject to the directions and control of the Commonwealth's attorney. They shall aid, the Commonwealth's attorney in all matters pertaining to his office, and in such manner as he may from time to time designate.

125a-4. Absence of the senior officer.—In the absence of

the Commonwealth's attorney, the first assistant Commonwealth's attorney shall act as Commonwealth's attorney without additional compensation; and in the absence of both the Commonwealth's attorney and the first assistant Commonwealth's attorney the second assistant shall act as Commonwealth's attorney without additional compensation.

125b-1. District Detectives; appointment; salary.—That in all Counties of this Commonwealth having a population of One Hundred and Fifty Thousand (150,000) or over, there is hereby created the office of District Detectives to the Commonwealth's Attorney; said District Detectives shall be four in number and shall be appointed by the Commonwealth's Attorney for a term of four (4) years, but may be removed at any time by said Commonwealth's Attorney. And said district detectives shall be paid a salary not to exceed twenty-four hundred dollars ($2,400.00) annually for each detective.

125b-2. Duties of.—It shall be the duty of said district detectives to assist the Commonwealth's attorney in the preparation of all criminal cases pending in the circuit court of said county, by investigating the evidence and facts connected with such cases, and they shall aid the Commonwealth's attorney in all matters pertaining to his office and in such manner as he may from time to time designate.

125b-3. Arrests may be made and process executed by.—Said district detectives shall have the same powers of arrest and the same right to execute process as is now given by law to the sheriffs in this Commonwealth.

125b-4. Salary; when and how paid.—The salary of each of said district detectives shall be twenty-four hundred dollars per annum, payable out of the county levy in equal monthly installments.

Said Committee amendment is as follows, viz.:

Amend H. B. 82 on page 2, section 125a-4, line 35½ by

inserting after the word "Compensation" in line 35½ the following:

"; and in the absence of the Commonwealth's attorney and both the first and second assistant Commonwealth's Attorney, the third assistant Commonwealth's Attorney shall act as Commonwealth's Attorney without additional compensation."

Said amendment was agreed to.

Mr. Anderson offered the following amendments to said bill, viz.:

1. Amend H. B. 82 on page 1, section 1, line 3 by adding the letter "s" to the word "section" on page 1, section 1 and line 3.

2. Amend H. B. 82 on page 2, section 125a-2 line 15 by striking out the word "atorney" and inserting in lieu thereof the word "attorney"

3. Amend H. B. 82 on page 2, section 125a-3, line 22 by striking out the word "citizens" and inserting in lieu thereof the word "citizen"

4. Amend H. B. 82 on page 2, section 125a-3 line 23 by striking out the word "this" and inserting in lieu thereof the word "the"

Said amendments were each and severally agreed to.

Mr. Anderson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Ward moved that said bill be laid on the table.

Said motion was agreed to.

And so said bill was tabled.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 132. AN ACT relating to the holding of sessions of Court in the 26th Circuit Court District in Kentucky and providing that regular Grand Juries be summoned and criminal and penal cases be tried at certain specified terms unless the Court in emergency otherwise directs.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965-26 of Carroll's Kentucky Statutes of 1936 Edition, relating to the 26th Circuit Court District be, and the same is hereby amended by striking out the whole of Section 9655-26, to-wit:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four juridical days; fourth Monday in February, eighteen juridical days; second Monday in April, eighteen juridical days; fourth Monday in May, twenty-four juridical days; second Monday in September, eighteen juridical days; first Monday in November, eighteen juridical days.

Harlan County—at Harlan—first Monday in February, eighteen juridical days; third Monday in March, eighteen juridical days; first Monday in May, eighteen juridical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the third Monday in March, third Monday in August, fourth

Monday in November; unless in case of emergency the Court may otherwise direct".

And in lieu thereof, inserting the following:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four jurdical days; fourth Monday in February, eighteen juridical days; second Monday in April, eighteen juridical days; fourth Monday in May, twenty-four juridical days; second Monday in September, eighteen juridical days; first Monday in November, eighteen juridical days.

Harlan County—at Harlan—first Monday in February, eighteen juridical days; third Monday in March, eighteen juridical days; first Monday in May, eighteen juridical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

After January 1, 1941, Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the first Monday in February, the first Monday in May, and the first Monday in October; unless in case of emergency the Court may otherwise direct".

So that Said Section 965-26, as amended, shall read as follows:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four juridical days; fourth Monday in February, eighteen juridical days; second Monday in April, eighteen juridical days; fourth Monday in May, twenty-four juridical days; second Monday in September, eighteen juridical days; first Monday in November, eighteen juridical days.

Harlan County—at Harlan—first Monday in February,

eighteen juridical days; first Monday in March, eighteen juridical days; first Monday in May, eighteen juridical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

After January 1, 1940, Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the first Monday in February, the first Monday in May, and the first Monday in October; unless in case of emergency the Court may otherwise direct.''

Mr. Shehan offered the following amendments to said bill, viz.:

1. Amend H. B. 132 by striking out the word ''first'' in line 23, page 2 after the word ''the'' and before the word ''Monday'' and inserting in lieu thereof the word ''second'' and by striking out the word ''twenty-four'' in line 24 page 2 of the printed bill, after the word ''January'' and before the word Juridical'' and inserting in lieu thereof the word ''eighteen''

2. Amend H. B. 132 by striking out the word ''first'' in line 42, page 2 of the printed bill, after the word ''the'' and before the word ''Monday'' and inserting in lieu thereof the word ''second''

and by striking out the word ''twenty-four'' in line 43, page 3 of the printed bill, after the word ''January'' and before the word ''juridical'' and by inserting in lieu thereof the word ''eighteen''

3. Amend H. B. 132 on page 3, line 53 of the printed bill by striking out the figures ''1940'' after the numeral ''1'' and before the words ''grand juries'' and inserting in lieu thereof the figures ''1941''

Said amendments were each and severally agreed to.

Mr. Shehan moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	R. R. Ernst	Robert E. Lee
J. Everett Bach	Carlos Fallis	Harvey D. Leonard
H. T. Baker	Thos. P. Fitzpatrick	W. Paul Lyon
G. M. Ballard	Cecil Florence	C. C. May
Robert E. Barry	Wayne Freeman	T. B. McConnell
Wm. T. Beard	Eugene Gough	Frank C. McElwain
Alvis S. Bennett	Van Y. Greene	E. Hayes McMakin
J. F. Bosworth	Ralph C. Hamilton	Norris McPherson
Haynes Carman	Claude L. Hammons	Stanley C. Moebus
James W. Chapman	T. H. Hickey	John B. Mollette
S. B. Chrisman	Clyde S. Howard	Davis Moore
John Coulter	Chester Huffines	Joe T. Morgan
John H. Cox	W. H. Hunt	C. Homer Neikirk
W. Q. Daniel	R. L. Jackson	Carl D. Perkins
F. E. Daugherty	J. B. Jarboe Jr.	B. W. Porter
Louis B. Dugan	Chas. X. Jones	H. O. Porter
Forest C. Easley	John S. Juett	Kleber F. Price
D. E. Edwards	W. A. Lamkin Jr.	Hobart Rayburn

Thomas Rigdon	E. T. Sparks	Erna E. Tyra
Joe E. Robinson	G. C. Springate	J. Wood Vance
Jack Savage	Ray J. Stengel	S. J. Wagner
Carl Scheben	Henry Stewart	Porter Wallace
Ray O. Shehan	W. St. Clair Stuart	Otis White
Bruce Sloan	T. M. Swope	James H. Woods
Otto Smither	Otis C. Thomas	—74

There voted in the negative—

Randolph A. Brown —1

Resolved that the title thereof be as aforesaid.

Mr. Shehan moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in that body entitled:

S. B. 110. An Act to amend Sec. 186 of the Constitution of the Commonwealth of Kentucky relating to the distribution and use of the public school fund of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrence of three-fifths of all the members elected to each House of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals, Section 186 of the Constitution of the Commonwealth of Kentucky be, and the same is, amended and revised, so that when amended and revised it shall read as follows:

"All funds accruing to the school fund shall be used for

the maintenance of the public schools of the Commonwealth, and for no other purpose, and the General Assembly shall by general law prescribe the manner of the distribution and use of the public school fund for public school purposes. Provided that each school district in the Commonwealth shall receive on a census pupil basis its proportionate part of at least ninety per cent of any fund accruing to the school fund. The remainder of any fund accruing to the school fund may be distributed upon other than a census pupil basis.''

§ 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the next general election (1941) for members of the House of Representatives as provided for under Section 256 of the Constitution of Kentucky, and under Section 1459 of Carroll's 1936 Edition of Kentucky Statutes.

Ordered that said bill be printed and referred.

Mr. J. Lee Moore moved that the Rules of this House be suspended and that the House take up for immediate consideration a bill entitled:

H. B. 340. AN ACT to prevent the spread of syphilis through marriage and to provide for an antenuptial physical examination to determine the presence of syphilis and to provide a penalty for the violation of the provisions of this Act;

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 2105a-1, 2105a-2, 2105a-3 and 2105a-4

are hereby repealed and amended and re-enacted so that said sections as amended and re-enacted shall read as follows:

Section 2105a-1a. Every person making application for license to marry shall, at any time within fifteen days prior to such application, be examined by a physician authorized to practice medicine in Kentucky as to the existence or non-existence in such person of any stage of syphilis infection which is or is likely to become communicable, and it shall be unlawful for the county clerk of any county to issue a license to marry to any person who shall have failed to present and file with such county clerk either a medical certificate indicating that such examination has been made, or an order from a court of proper jurisdiction directing that said clerk issue the marriage license.

Section 2105a-1b. In order to obtain a medical certificate, as required in this Act, each such medical examination shall include a complete history, and such physical examination as will reveal any existing clinical evidence of a syphilis infection, and laboratory test or tests. All laboratory tests required by this Act shall be made by a laboratory which is approved by the State Commissioner of Health of Kentucky, or by the laboratory of the State Department of Health. Such laboratory test, or tests as may be made by the State Department of Health shall be made free of charge. Laboratory tests shall include a Kahn diagnostic test for syphilis, or some other serological test for syphilis approved by the State Commissioner of Health of Kentucky, and/or a Darkfield test for syphilis when moist lesions are present. The medical certificate referred to in this Act shall be made on a form prescribed by the State Commissioner of Health of Kentucky.

Section 2105a-1c. If, on the basis of laboratory test, or tests, and clinical examination, the examining physician finds no evidence of any syphilis infection, he shall issue a medical certificate to that effect to the applicant. If, on the basis of

laboratory test or tests and/or clinical examination, the examining physician finds evidence of a syphilis infection, a medical certificate shall be withheld until such time as the applicant has undergone such additional clinical examination and laboratory test or tests, by the same or another physician authorized to practice medicine in Kentucky, to determine the existence or non-existence of a syphilis infection, and if the existence of such infection is determined, the applicant shall immediately become amenable to the rules and regulations adopted and promulgated by the State Board of Health of Kentucky to prevent persons having a syphilis infection in a communicable stage from transferring such infection to other persons and medical certificate shall be issued when and after the requirements of the rules, regulations for the prevention of the spread of syphilis, hereinafter authorized by the State Board of Health of Kentucky have been fully compiled with.

Section 2105a-1d. In the event the female applicant for marriage license makes an affidavit to the effect that marriage is necessary for the reason that she is with child and that such marriage will confer legitimacy on the unborn child, the county judge of the county wherein the application is made is hereby authorized and empowered to hear and determine, on medical testimony, the question of pregnancy and, on adjudging that pregnancy exists, shall order the county clerk to issue the marriage license, PROVIDED, that all other requirements of the law regulating the issuance of marriage licenses are complied with, even though the clinical examination and laboratory test, or tests reveal that one or both marriage applicants have a syphilis infection, and in said order the county judge shall further provide that one or both of the applicants having a syphilis infection shall be treated for the infection as provided by the rules and regulations of the State Board of Health of Kentucky. Where such order is made by a county judge a copy of said order shall be filed with the county clerk in lieu of the medical certificate.

Section 2105a-1e. Every physician, or properly elected health officer, or a physician authorized to practice medicine in Kentucky designated as a representative of a health officer who takes, or causes to be taken from an applicant for marriage license, a specimen for laboratory examination, shall submit such specimen in a manner prescribed by the State Commissioner of Health of Kentucky and shall identify that specimen as "Premarital" when submitting it to an approved laboratory for test, and the laboratory shall provide a report, in triplicate, on a form prepared and furnished by the State Department of Health of Kentucky, of the result of the test on each such specimen submitted. The original of each such report shall be forwarded to the physician submitting the specimen. A duplicte shall be forwarded to the State Department of Health of Kentucky not later than Saturday of the week in which the test was made, and the triplicate shall be retained by the laboratory for its files.

Section 2105a-2a. When an applicant has been refused a marriage license by the county clerk by reason of failure of the applicant to obtain the medical certificate required by this Act, the applicant may elect to file a protest, and take the procedure herein authorized, or to take any other proper procedure, either of a mandatory nature or as otherwise authorized by law. If such applicant elects the procedure authorized in this Act, he may file a protest before the judge of the county wherein the license was denied, and notice of such protest shall there upon be served as a summons is served, upon the State Commissioner of Health and upon the county health officer, if there be a county health officer in that county. All trials under the procedure authorized in this Act shall be summarialy heard and determined in chambers, and all persons, except necessary officers of the court, and attorneys of record in the matter under consideration, the county health officer or a physician appointed as a representative of the county health officer, and the witnesses, shall be excluded from the hearing, excepting only such other persons as may

be authorized to attend the hearing by the applicant. The evidence shall not be transcribed unless authorized by the applicant, and all information, reports, and evidence concerning the persons allegedly having a syphilis infection, and all recommendations, including laboratory reports pertaining thereto, shall be considered privileged communications and shall be inaccessible to the public, and a final order upon any hearing in the matter shall simply state that the applicant may or may not secure the license sought; PROVIDED, that all other requirements of law regulating the issuance of a marriage license are complied with; and PROVIDED further, that there shall be no court costs chargeable for service incident to the carrying out of this Act, but that such service shall be considered a part of the official duty of all officers involved in such proceedings.

The protest may be heard by the county judge twenty (20) days after it is filed, and upon such hearing, the county judge shall, in addition to any other evidence, hear medical testimony by the medical examiner, or examiners, and testimony by the health officer of the county or by a physician authorized to practice medicine in Kentucky designated as a representative of the health officer, and by such representative as the State Commissioner of Health may designate. The medical testimony referred to shall be addressed solely to the determination of whether or not the applicant is suffering from a syphilis infection or infections, in a communicable stage, or in a stage likely to become communicable; PROVIDED, that no evidence of a laboratory examination shall be admissible unless it shall have been made in a laboratory approved by the State Commissioner of Health for the purpose of making serological tests; and PROVIDED further, that a written report of such an approved laboratory, attested by the physician in charge, identifying the applicant, shall be prima facia evidence of the result of the laboratory test made concerning the applicant.

Section 2105a-2b. Either the State Commissioner of Health, or the applicant may appeal from the action of the county judge within sixty (60) days from the date of the entry of the order of the county judge determining the matter, to the circuit court, and the matter shall be docketed and heard de novo as an equity action, and all rules of equity and laws concerning equity actions shall apply, and the provisions hereinabove mentioned concerning testimony shall apply.

Section 2105a-2c. Any person violating the provisions of this Act concerning the confidential nature of the provisions herein, shall be fined the sum of one thousand ($1,000.00) dollars, which sum shall be paid upon recovery to the applicant, in lieu of damages, and upon failure to pay such fine, the defendant shall serve imprisonment as otherwise provided by law for failure to satisfy a fine.

Section 2105a-3. A marriage license issued in accordance with the provisions of this Act shall be valid for thirty days, including the date it is issued, after which time it shall become valid.

Section 2105a-4. In order that each county judge and the circuit judge may arrive at just decisions under the authority conferred upon him by the Section 2105a-1d, 2105a-2a and 2105a-2b of this Act, the county health officer shall, after hearing the evidence, either himself or by a physician authorized to practice medicine in Kentucky and who is especially skilled in the diagnosis of pregnancy or in the diagnosis, prevention and treatment of syphilis, advise him in writing as to the existence of pregnancy or of syphilis in a communicable stage, or in a stage likely to become communicable, and such advice shall be considered by the court and made a part of the record.

Section 2105a-5. Any applicant for marriage license, physician, laboratory representative or county clerk who shall violate any of the provisions of this Act, or who shall

make any false representations of fact or identity, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten ($10.00) dollars, nor more than one hundred ($100.00) dollars, and imprisoned.

§ 2. This Act shall become effective on January 1, 1941, and shall be in effect thereafter.

§ 3. Since the Sections of the Statutes to which this Act is amendatory cannot be made effective as of March 1, 1940, as now provided by law, because the approval of private laboratories in the Commonwealth cannot be completed by that time, an emergency is declared to exist and this Act shall become effective from and after its passage and the approval by the Governor.

Mr. J. Lee Moore moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Sterling B. Blake	Randolph A. Brown
H. T. Baker	Douglas T. Bolling	Haynes Carman
G. M. Ballard	J. F. Bosworth	Charles M. Carter
Robert E. Barry	W. S. Brim	S. B. Chrisman
Wm. T. Beard	C. J. Bronston	John Coulter
Bell Bevins	Gus A. Brooks	John H. Cox

Pink G. Curd	William K. King	Jack Savage
W. Q. Daniel	W. A. Lamkin Jr.	Carl Scheben
F. E. Daugherty	Robert E. Lee	Leon J. Shaikun
Louis B. Dugan	Harvey D. Leonard	Ray O. Shehan
Forest C. Easley	Edward Leslie	Faust Y. Simpson
D. E. Edwards	W. Paul Lyon	Bruce Sloan
Harry W. Ennis	E. Hayes McMakin	Otto Smither
R. R. Ernst	Stanley C. Moebus	E. T. Sparks
Carlos Fallis	John B. Mollette	G. C. Springate
Cecil Florence	Davis Moore	Ray J. Stengel
Wayne Freeman	J. Lee Moore	Henry Stewart
Eugene Gough	Joe T. Morgan	Otis C. Thomas
Van Y. Greene	C. Homer Neikirk	Erna E. Tyra
Ralph C. Hamilton	B. W. Porter	J. Wood Vance
Claude L. Hammons	H. O. Porter	Walter R. Vansant
T. H. Hickey	Kleber F. Price	S. J. Wagner
Clyde S. Howard	Hobart Rayburn	Porter Wallace
John M. Hunnicutt	Thomas Rigdon	Henry Ward
R. L. Jackson	W. H. Riley	H. L. Waterfield
J. B. Jarboe Jr.	Joe E. Robinson	Otis White
Chas. X. Jones	Lyman Roll	James H. Woods

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There voted in the negative—

Norris McPherson —1

Mr. J. Lee Moore offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 340 by striking out the semicolon after the word "Act" in the 4th line of title and inserting: "and declaring an emergency to exist."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. J. Lee Moore moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Anderson moved that the vote by which a bill entitled:

H. B. 82. (For title see Journal of today ante)

Was tabled, be reconsidered.

Said motion was disagreed to.

Mr. Ward moved that the vote by which the House refused to reconsider the vote by which said bill was tabled, be reconsidered and that motion lie on the table.

Said last named motion was agreed to.

Mr. Rayburn moved that the Rules of this House be suspended for the purpose of permitting Committee to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Brooks of the Committee on Agriculture No. 1.

H. B. 245. An Act to regulate the operations in this state of rural electric cooperative corporations, etc.

H. B. 180. An Act to provide for the making and labeling of strawberries grown and packed in the Commonwealth.

Without an expression of opinion.

By Mr. Fitzpatrick of Committee on Public Health No. 1.

H. B. 383. An Act relating to drinking water used by school children, etc.

Without an expression of opinion.

With the expression of opinion that said bills ought to pass with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. Brooks of the Committee on Agriculture No. 1.

H. B. 246. An Act relating to dogs and protection of live stock and poultry from injury by dogs.

With the expression of opinion that said bill ought not to pass.

No motion having been made to advance said bill to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken by the House on said bill, it was ordered that said bill be not read at length the first time, and so said bill was rejected.

By Mr. McPherson of the Committee on Motor Transportation.

H. B. 335. An Act relating to motor vehicles, providing for the registration, regulation and licensing of motor trucks, truck tractors and semi-truck trailers, etc.

With the expression of opinion that said bill ought not to pass.

Mr. J. Lee Moore moved that further consideration of the report of the Committee above named on said bill be postponed indefinitely.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. J. Lee Moore and Hunnicutt, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Wayne Freeman	C. Homer Neikirk
J. Everett Bach	Van Y. Greene	Kleber F. Price
H. T. Baker	Claude L. Hammons	Hobart Rayburn
G. M. Ballard	T. H. Hickey	Thomas Rigdon
Wm. T. Beard	Clyde S. Howard	Joe E. Robinson
Sterling B. Blake	Chester Huffines	Carl Scheben
Douglas T. Bolling	John M. Hunnicutt	Ray O. Shehan
J. F. Bosworth	W. H. Hunt	Faust Y. Simpson
W. S. Brim	R. L. Jackson	Bruce Sloan
Gus A. Brooks	J. B. Jarboe Jr.	E. T. Sparks
Haynes Carman	Chas. X. Jones	G. C. Springate
Charles M. Carter	William K. King	J. Claude Stacy
S. B. Chrisman	Robert E. Lee	Henry Stewart
John Coulter	Harvey D. Leonard	W. St. Clair Stuart
Pink G. Curd	Edward Leslie	Otis C. Thomas
W. Q. Daniel	C. C. May	Erna E. Tyra
F. E. Daugherty	T. B. McConnell	S. J. Wagner
Stanley S. Dickson	Frank C. McElwain	Porter Wallace
Louis B. Dugan	Norris McPherson	Harry F. Walters
D. E. Edwards	Stanley C. Moebus	Henry Ward
Harry W. Ennis	John B. Mollette	H. L. Waterfield
R. R. Ernst	J. Lee Moore	Otis White
Thos. P. Fitzpatrick	Joe T. Morgan	James H. Woods

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Those who voted in the negative were—

C. J. Bronston	John S. Juett	Jack Savage
Randolph A. Brown	W. A. Lamkin Jr.	T. M. Swope
John H. Cox	W. Paul Lyon	J. Wood Vance
Forest C. Easley	Carl D. Perkins	Walter R. Vansant
Eugene Gough	B. W. Porter	
Ralph C. Hamilton	Lyman Roll	

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No further action having been taken by the House and further consideration being postponed indefinitely, said bill was rejected.

Mr. J. Lee Moore moved that the vote by which further

consideration of said bill was postponed indefinitely be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 182. An Act to repeal, amend and re-enact Sec. 3896 Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 3896, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted that said Statute shall read as follows:

Section 3896. The Court having jurisdiction shall grant administration to the relations of the deceased who apply for the same, preferring the surviving husband or wife, and then such others as are next entitled to distribution, or one or more of them who the court shall judge will best manage the estate.

But in any instance where any relative or relatives entitled to distribution shall object in writing to the appointment of the person selected by Court, the Court shall then appoint such person or persons as may be designated by a majority of the relatives entitled to distribution.

At the time the Court makes such appointment the person appointed shall file with the Court his affidavit stating the date of death, the name of the decedent, a description and the approximate value of the estate so far as known to him, the names ages and addresses of all legal heirs and such other information as the Court may require.

Mr. Vansant offered the following amendments to said bill, viz.:

1. Amend H. B. 182 on page 1, section 1, line 12 by striking out the period after the word "distribution" and inserting after the word "distribution" the following:

"if a majority of the relatives designates a qualified person within thirty days after the objection is made, the Court shall appoint one guardian ad litem to act for all of the infant heirs in designating such person."

2. Amend H. B. 182 on page 2, section 1, line 16 by inserting a comma after the word "names" and before the word "ages"

Said amendments were each agreed to.

Mr. Vansant moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Florence moved that said bill be laid on the table.

Said motion was agred to.

And so said bill was tabled.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 28. An Act to change the time of holding court in the 37th Judicial District.

Mr. Ward moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 221. An Act to provide that no court shall award alimony to any wife unless at time of the award she has no more dependent children.

Mr. Vansant moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 48. AN ACT to amend and reenact section 3290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, providing for the government of cities of the third class and authorizing the acquisition, establishment and maintenance of public cemeteries, parks, squares, avenues, promenades and fountains, and authorizing the revocation of ordinances under which the foregoing have been or may be created, and authorizing a change of use of such lands and providing for the cost, maintenance and regulation thereof and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3290-33, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be amended and reenacted so that as amended and reenacted it shall read as follows:

"Section 3290-33. To acquire, establish and maintain public cemeteries, parks, squares, avenues, promenades and fountains, either within or without the city; and authorizing said cities of the third class, by the enactment of appropriate ordinances, to repeal ordinances that heretofore have been or

hereafter may be enacted creating such public cemeteries, parks, squares, avenues, promenades and fountains where the same were not acquired or given to the city for such specific purposes, and authorizing said cities to provide, by appropriate ordinances, for the use of said lands, easements, buildings and appurtenances thereon or appertaining thereto for other purposes; to make all necessary appropriations for the cost and maintenance of same, and to make regulations for the use, management and direction thereof."

§ 2. That, whereas, many cities of the third class have by ordinances established public cemeteries, parks, squares, avenues, promenades and fountains and have subsequently determined that they were financially unable to properly improve, operate and maintain the same; and,

Whereas, the growth and expansion of many cities of the third class necessitate a change of use of the land to purposes other than those provided in former ordinances that have heretofore been enacted, and because the public good demands that such power and authority be vested in cities of the third class to remedy such conditions as quickly as possible, an emergency is hereby declared to exist and this Act shall take immediate effect when passed and approved by the Governor.

Mr. Roll moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson Jr.	Thos. P. Fitzpatrick	B. W. Porter
J. Everett Bach	Cecil Florence	H. O. Porter
H. T. Baker	Wayne Freeman	Kleber F. Price
G. M. Ballard	Eugene Gough	Thomas Rigdon
Robert E. Barry	Van Y. Greene	Joe E. Robinson
Wm. T. Beard	Ralph C. Hamilton	Lyman Roll
Alvis S. Bennett	Claude L. Hammons	Jack Savage
Rell Bevins	T. H. Hickey	Carl Scheben
Sterling B. Blake	Clyde S. Howard	Leon J. Shaikun
W. S. Brim	Chester Huffines	Faust Y. Simpson
C. J. Bronston	John M. Hunnicutt	Otto Smither
Gus A. Brooks	W. H. Hunt	E. T. Sparks
Randolph A. Brown	J. B. Jarboe Jr.	G. C. Springate
Haynes Carman	Chas. X. Jones	J. Claude Stacy
Charles M. Carter	William K. King	Ray J. Stengel
S. B. Chrisman	Robert E. Lee	W. St. Clair Stuart
John Coulter	Edward Leslie	T. M. Swope
John H. Cox	W. Paul Lyon	Otis C. Thomas
W. Q. Daniel	C. C. May	Erna E. Tyra
Louis B. Dugan	Frank C. McElwain	J. Wood Vance
Forest C. Easley	E. Hayes McMakin	Walter R. Vansant
D. E. Edwards	Stanley C. Moebus	Porter Wallace
Harry W. Ennis	Davis Moore	Harry F. Walters
R. R. Ernst	J. Lee Moore	Henry Ward
Carlos Fallis	C. Homer Neikirk	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Roll moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 108. AN ACT to amend Section 2925 of Article 19, Chapter 89 of the Acts of the General Assembly of 1902, relating to the appointment, powers and compensation of a Pro Tem. Judge of the Police Court in cities of the first class, being Section 2925, Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2925 of Chapter 19 of the Acts of the General Assembly of 1902, which is known as Section 2925, Kentucky Statutes, Carroll's Edition, 1936, be amended, repealed and reenacted so as when amended and reenacted the same shall read as follows:

The Mayor of a city of the first class, is hereby authorized to appoint a Judge Pro Tem. of the Police Court who shall hold office at the pleasure of the Mayor, and shall have the same rights, powers and duties as the regular judge has, when from any cause or reason, the regular judge of said Court shall fail to attend and to hold court, or for any cause or reason vacates the bench. Said Judge Pro Tem. shall be prohibited from practicing any case in said Court.

The Judge Pro Tem. must possess the same qualifications of the regular judge, and shall receive a salary of $3000.00 per annum, payable by the city, semi-monthly.

Whereas, in every city of the first class the Judge of the Police Court thereof is required to try each day hundreds of cases; and

Whereas, the present judges are unable, because of the pressure of business, to properly transact it; and

Whereas, said judges have had voluntary help by the appointment of judges pro-tem of said courts; and

Whereas, there is now by law no provision for the transaction of such judges pro-tem in said courts, an emergency is

hereby declared to exist, and this Act shall become immediately effective after its passage and approval by the Governor.

Mr. McPherson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson Jr.	W. Q. Daniel	William K. King
J. Everett Bach	F. E. Daugherty	Robert E. Lee
G. M. Ballard	Louis B. Dugan	Harvey D. Leonard
Robert E. Barry	D. E. Edwards	W. Paul Lyon
Wm. T. Beard	Carlos Fallis	C. C. May
Alvis S. Bennett	T. P. Fitzpatrick	Frank C. McElwain
Rell Bevins	Cecil Florence	E. Hayes McMakin
Sterling B. Blake	Wayne Freeman	Norris McPherson
Douglas T. Bolling	Van Y. Greene	Stanley C. Moebus
W. S. Brim	Ralph C. Hamilton	John B. Mollette
C. J. Bronston	C. L. Hammons	Davis Moore
Gus A. Brooks	T. H. Hickey	J. Lee Moore
Randolph A. Brown	Clyde S. Howard	C. Homer Neikirk
Haynes Carman	John M. Hunnicutt	B. W. Porter
Charles M. Carter	W. H. Hunt	H. O. Porter
S. B. Chrisman	R. L. Jackson	Kleber F. Price
John Coulter	J. B. Jarboe Jr.	Hobart Rayburn
John H. Cox	Chas. X. Jones	Thomas Rigdon

W. H. Riley	Bruce Sloan	W. St. Clair Stuart
Joe E. Robinson	Otto Smither	Otis C. Thomas
Lyman Roll	E. T. Sparks	Erna E. Tyra
Jack Savage	G. C. Springate	Porter Wallace
Carl Scheben	J. Claude Stacy	Harry F. Walters
Leon J. Shaikun	Ray J. Stengel	Harry L. Waterfield
Ray O. Shehan	Henry Stewart	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. McPherson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 53. An Act to amend Kentucky Statutes, Criminal Code of Practice, providing for appeals from judgments upon trial under writ of habeas corpus.

Mr. Scheben moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 276. An Act to permit manufacturers, wholesalers and retailers of distilled spirits make fair trade contracts.

Mr. J. Lee Moore moved that said bill be laid on the Clerk's desk.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitledd:

H. B. No. 327. An Act to create exporter's license and providing for the sale and export of distilled spirits and wine; requiring license therefor and fixing the amount of license fees; defining the transactions permitted and prohibited to export licenses; specifying location of premises; providing for the payment of supervision and inspection fees and the purpose and use thereof; providing for the manner of shipment and for a special transporter's license and the issuance thereof and fixing the amount and payment of the fee; fixing requirements for keeping records and filing reports; imposing prohibitions, regulations and restrictions on the holders of export licenses; fixing penalties for violation of this Act; repealing inconsistent laws; adopting for purposes of interpretation and administration of the alcoholic beverage control law of 1938, being Chapter 2 of the Acts of the 1938 General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Exporter's License.*—There is hereby created an exporter's license the fee for which shall be One Thousand ($1,000.00) Dollars which shall be paid to the Department of Revenue and shall expire on June 30th of each year. Such license fees may be probated in the manner provided by Section 2554b-117 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes. The said Department of Revenue shall issue such license upon the proper application therefor.

§ 2. *Business Authorized by Export Licensee.*—The exporter's license shall authorize the holder thereof to purchase, receive, store and possess distilled spirits and wine and to sell same in quantities of not less than five case lots from the licensed premises only.

§ 3. *Transactions Permitted and Prohibited to Export Licensees.*—The holder of an export license may sell and deliver distilled spirits and wine in not less than five case lots and from the licensed premises only to:

(a) Licensed distillers, rectifiers, vintners, blenders, exporters and importers providing no sale shall be made to any licensed wholesaler except by way of return of merchandise or in liquidation;

(b) Distillers, rectifiers, blenders, vinters and importers who are duly licensed by the laws of the State of their residence and by the Federal Government to receive same;

(c) Wholesalers and Retailers located outside of the State of Kentucky and for consumption outside of the State of Kentucky. No sale shall be made by any export licensee to any person not holding a Federal permit or occupational tax stamp for the type of business conducted by said purchaser; and where the State of the purchaser's residence provides for the sale of distilled spirits and/or wine for beverage purposes and issues a State license for the sale of distilled spirits and wine, said purchaser shall hold a license issued by such State authorizing such purchaser to sell said distilled spirits and wine so purchased. Provided, however, that nothing in this section shall be construed to prevent the sale of distilled spirits and wine to persons holding a Federal permit or stamp in any state that provides for the sale of such spirits and wine for beverage purposes only in subdivisions of the state which by referendum or election specifically authorize this traffic; and, provided, however, that no sales shall be made into any such subdivision of any such state after the said State and the Federal Government shall have regularly licensed persons to engage in the sale of distilled spirits and wine in that subdivision, save and except the purchaser be the holder of a Federal stamp and State license authorizing the purchaser to receive the distilled spirits and wine so purchased.

No export licensee shall sell or contract to sell give away or deliver any distilled spirits or wine to any person in Kentucky not specifically permitted and named in this section.

Export licensees may purchase and receive distilled spirits and wine from distillers, rectifiers, blenders, importers, vintners, exporters and wholesalers licensed by the Commonwealth of Kentucky or from nonresidents duly authorized by the laws of the state of their residence and by the Federal Government if located in the United States, to make sales. Export licensees are hereby prohibited from transporting distilled spirits or wine from any point.

§ 4. *Special Fees, Transportation, Licenses, Regulations, Privileges, Limitations and Prohibitions Relating Only to Export Licensees.*

(a) *Location of Premises;* The premises of all export licensees shall be located within ten miles by Federal Highways of the Kentucky border and within a municipal corporation with a population of not less than three thousand inhabitants, and no premises used by the exporter shall be used for any other commercial purpose whatsoever;

(b) *Supervision and Inspection Fees to be Paid by Export Licensees;* It appearing that said export licensees will require supervision and services from the Department of Revenue not required by other persons licensed under the provisions of the Alcoholic Beverage Control Law of 1938, which duties and services cannot be performed by the regular field representatives, and that additional field representatives will be required, and each exporter shall therefore pay an inspection and supervision fee of twenty-five cents upon each case of distilled spirits or wine sold by said export licensee, said twenty-five cents per case supervision and inspection fee to be paid at the time set forth in Section 4281c-19 of Carroll's Kentucky Statutes, or amendments thereto, which provides for the filing of monthly reports and shall be paid to the

Department of Revenue and disbursed as provided in Section 5 hereof;

(c) *Manner of Shipment from Premises of Export Licensee;* Shipment of distilled spirits and wine shall in no event be made by an export licensee except by common carrier (no exporter shall own any truck or conveyance of any kind, character or description whereby he may export distilled spirits or wine into any other state); but nothing in this section of the law or any section of the Alcoholic Beverage Control Law of 1938, or any regulation thereof or hereunder, shall prohibit a purchaser from the exporter from transporting his own purchase in a conveyance of his (purchaser's) own, or by any person under contract to said purchaser; provided the purchaser, or his agent, is the holder of a special temporary transporter's license which shall be issued by a representative of the Department of Revenue as provided in Section (e) hereof. It shall be prima facie evidence of illegal transportation for any purchaser of distilled spirits or wine for any conveyance carrying purchaser's merchandise to proceed except by direct route to the address which purchaser furnished by affidavit as provided in Section (d) hereof.

No distiller, rectifier, blender, wholesaler or other licensee shall load (or permit to be loaded at its premises) any purchase made by any purchaser upon order from an exporter under any circumstances whotsoever;

(d) *Special Affidavit and Record to be Made;* Every sale made by an exporter shall be recorded under oath of the purchaser or his agent on a blank, the form of which shall be prescribed by the Department of Revenue. This blank shall show (1) the amount of the sale (number of cases), (2) the serial number of each said cases, (3) the brand of each case, (4) the name of the purchaser, (5) the address of the purchaser, (6) the date of the sale, (7) the name and Federal stamp or license number of the exporter, (8) statement that

purchaser is a holder of a Federal permit or stamp and a state license if required by the state wherein his business is located, and (9) the license number of the conveyance used in transporting such spirits.

Should any exporter fail to secure said affidavit or to supply the representative of the Department of Revenue with two copies of the same he shall be prima facie guilty of making a sale to a person in Kentucky and such failure shall render the license of said exporter liable to suspension or revocation; and said export licensee shall be required to pay to the State of Kentucky the consumer's tax on distilled spirits as provided for in Section 4281c-4, or any amendments thereto, of Carroll's Kentucky Statutes, and the consumer's tax on wine as provided in Section 4281c-3, and all amendments thereto, of Carroll's Kentucky Statutes, so vended.

The record of each such sale as prescribed in this section shall be executed by the purchaser or his agent at the licensed premises of the export licensee and delivered immediately to the representative of the Department of Revenue for the purposes set out in Section (e) hereof. Another copy shall be preserved in serial order for at least two years. In every other respect the export licensee shall be required to make the same reports, supply the same information and submit to the same examinations, additional to those set out in this section, as are now prescribed by the Alcoholic Beverages Control Law of 1938 with respect to wholesalers of distilled spirits.

(e) *Export Licensee May Not Purchase Excise Stamps,* No export licensee shall have any right to purchase Kentucky excise tax stamps to be attached to merchandise and it is provided that sales made in the manner and to the persons above described shall not be subject to the State Tax required under Section 4281c-4 and Section 4281c-3, and any and all amendments thereto, of Carroll's Kentucky Statutes. However, samples distributed shall invariably bear a consumer's

tax stamp as required under the aforesaid sections of Carroll's Kentucky Statutes;

(f) *Bond Required of Export Licensees;* Every export licensee shall before a license is issued file with the Department of Revenue a corporate surety bond conditioned that the licensee will pay taxes and penalties and interest thereon of whatever kind or character for which he may be liable to Commonwealth of Kentucky, or any municipal corporation or taxing subdivision thereof. The surety and amount of the bond shall meet the qualifications specified for a wholesale licensee's tax bond as set forth in Section 2554b-135 of Baldwin's 1938 Revision of Carroll's Kentucky Statutes. The initial bond required of each export licensee is hereby fixed at Ten Thousand ($10,000.00) Dollars.

No licensee may continue in business unless said bond is in effect at all times.

(g) *Records to be Kept by Export Licensee and Inspection Thereof;* Each exporter licensed under this Act shall keep and maintain on the licensed premises full and complete records of each and every transaction in which he engages. Said bookkeeping system and books and records shall be approved by the Department of Revenue prior to installation by said export licensee. Such books and records shall be available at all reasonable times for inspection by any authorized representative of the Department of Revenue.

(h) *Form of License;* The form of license to be issued to export licensees shall be the same as now provided by Section 2554b-1 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes and any amendments thereto. Said export license shall carry the legend "This license is issued for the export business only and does not authorize sales to be made to residents of Kentucky".

(i) *Closing Hours;* Export licensees shall in no event traffic in any alcoholic beverages on Sunday nor during the

time the polls are open on any regular election day but may operate twenty-four hours a day on any other day.

(j) *Sales for Cash Only;* Sales by export licensees shall be made for cash only.

(k) *Waiting Period and Advertising;* No waiting period or advertisement of intention to apply for an exporter's license shall be required prior to the issuance of any exporter's license.

(l) *Special Transporter's License and the Issuance Thereof;* Shipment or transportation of said distilled spirits or wine shall in no event be made by said exporter except by common carrier; but nothing in this Act shall prohibit a purchaser from transporting his purchases in a conveyance of his (the purchaser's) own, or by any person under contract to said purchaser; provided the purchaser, or his agent, is the holder of a special temporary transporter's license which shall be issued as herein provided.

The Commissioner of Revenue shall designate representatives, one of whom shall be subject to call at each of the licensed premises during the entire twenty-four hours of each working day, which representative is hereby authorized to issue a special temporary transporter's license in such form as the Board may prescribe authorizing the holder thereof to transport the same distilled spirits or wine, which is covered by the invoice and affidavit provided for in Subsection (d) of this Section 4 hereof over a specified route and within a given period of time which in no event shall exceed eight hours. The transportation of any distilled spirits which have been purchased from an export licensee by any person not holding a special temporary transporter's license shall be deemed a violation of this Act and of the Alcoholic Beverage Control Law.

The fee for such special temporary transporter's license shall be fifty (50c) cents, and the license shall expire on the

date and hour specified on the license. Any purchaser who has completed the affidavit provided for in Subsection (d) of Section 4 hereof shall be deemed to have filed an application for special transporter's permit, and such affidavit shall be accepted by the representative of the Department of Revenue in lieu of an application for the special temporary transporter's license.

§ 5. *Methods of Handling Fees Paid.*—The supervision and inspection fees required to be paid by export licensees under Subsection (b) of section 4 hereof, and the fee for special temporary transporter's license required to be paid under Subsection (1) of Section 4 hereof shall each be paid to the Department of Revenue and by the Department transferred and paid to the Treasurer of the State of Kentucky and credited to the general fund; upon proper requisition, however, of the Department of Revenue the Commissioner of Finance shall pay or cause to be paid to the representatives of the said Department of Revenue the salaries and expenses of the field representatives provided for in this Act. Said Department of Revenue is hereby authorized to employ sufficient personnel to adequately supervise and inspect the business authorized by the holder of an export license and a special temporary transporter's license, and it is the intention of this Act that the supervision and inspection fees and the fees for special temporary transporter's license shall be used for the purpose of defraying all salaries and expenses incurred in the supervision and inspection of all licenses authorized by this Act and that after the payment of said salaries and expenses, as herein provided, that the remainder of said fees so paid shall be credited to the general fund.

§ 6. *Penalties.*—Unless otherwise specifically provided in this Act the penalties for the violation of this Act shall be the same as imposed under Section 2554b-195 and 196 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes, being the provisions of the Alcoholic Beverage Control Law.

§ 7. *Reference to Alcoholic Beverage Control Law of 1938.*—Except as otherwise herein specifically provided this Act shall be administered in the manner provided for the regulation and supervision of licensees authorized under the Alcoholic Beverage Control Law of 1938 and for the purpose of the administration, construction and interpretation of the provisions of this Act, the 1938 Alcoholic Beverage Control Law, being Chapter 2 of the Act, of the 1938 General Assembly, now compiled as Sections 2554b-98 to 2554b-22 inclusive, of Baldwin's 1938 Supplement of Carroll's Kentucky Statutes, and any and all amendments thereto, be and the same is hereby referred to and adopted.

§ 8. *Repealing Clause.*—All laws or parts of laws in conflict herewith are hereby repealed.

Mr. Daugherty offered the following amendments to said bill, viz.:

1. Amend H. B. 327 on page 8, section 5, line 4 by striking out the figure "1" in the brackets and insert in lieu therefor the small letter (l)

2. Amend H. B. 327 on page 2, section 1, line 4 by striking out the word "probated" and inserting in lieu therefor the word "prorated"

3. Amend H. B. 327 on page 2, section 4, line 4 by striking out the word "Highways" and inserting in lieu therefor the word "Highway"

4. Amend H. B. 327 on page 3, section 4, line 2, by striking out the word "relatting" and inserting in lieu therefor the word "relating"

5. Amend H. B. 327 on page 4, sec. 4, line 14 by striking out the word "and" before the word "each"

6. Amend H. B. 327 on page 4, sec. 4, line 32 by striking out the words "Section (e)" and inserting in lieu therefor the following: "Sub-section (1)"

7. Amend H. B. 327 on page 4, sec. 4, line 36 by striking

out the word "Section" and insert in lieu therefor the word "sub-section"

8. Amend H. B. 327 on page 5, sec. 4, line 65 by striking out the word "Section" and inserting in lieu therefor the word "Sub-section"

9. Amend H. B. 327 on page 5, sec. 4, line 70 by striking the words "Alcoholic Beverage Control Law of 1938" and inserting in lieu thereof the words "laws of the Commonwealth of Kentucky"

10. Amend H. B. 327 on page 6, sec. 4, line 87 by striking out the words "Revision of" and inserting in lieu therefor the words "Supplement to"

11. Amend H. B. 327 on page 7, sec. 4, line 113 by inserting the word "in" following the word "traffic"

12. Amend H. B. 327 on page 7, sec. 4, lines 135 and 136 by striking out the words "Section 4 hereof" and inserting in lieu therefor the words "this section"

13. Amend H. B. 327 on page 8, sec. 4, line 144 by striking out the words "Section 4 hereof" and inserting in lieu therefor the words "this section"

14. Amend H. B. 327 on page 9, sec. 6, line 3 by striking out the words and figures "Section 2554b-195 and 196" and inserting in lieu therefor the words and figures: "Sections 2554b-195 and 2554b-196"

15. Amend H. B. 327 on page 9, sec. 7, line 7 by striking out the word "Act" and the comma and inserting in lieu therefor the words "Acts of"

16. Amend H. B. 327 on page 9, sec. 7, line 8 by striking the words "Section 2554b-98 to 2554b-22 inclusive" and inserting in lieu thereof "Sections 2554b-97 to 2554b-222 inclusive."

Said amendments were each and severally agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson Jr.	Carlos Fallis	Edward Leslie
J. Everett Bach	T. P. Fitzpatrick	C. C. May
G. M. Ballard	Cecil Florence	Frank C. McElwain
Robert E. Barry	Wayne Freeman	E. Hayes McMakin
Wm. T. Beard	Eugene Gough	Norris McPherson
Alvis S. Bennett	Van Y. Greene	Stanley C. Moebus
Rell Bevins	Ralph C. Hamilton	John B. Mollette
Sterling B. Blake	C. L. Hammons	Davis Moore
Douglas T. Bolling	T. H. Hickey	J. Lee Moore
J. F. Bosworth	Clyde S. Howard	C. Homer Neikirk
W. S. Brim	Chester Huffines	Kleber F. Price
C. J. Bronston	John M. Hunnicutt	Hobart Rayburn
Gus A. Brooks	W. H. Hunt	Thomas Rigdon
Haynes Carman	R. L. Jackson	W. H. Riley
Charles M. Carter	J. B. Jarboe Jr.	Joe E. Robinson
John Coulter	Chas. X. Jones	Lyman Roll
John H. Cox	John S. Juett	Jack Savage
Pink G. Curd	William K. King	Carl Scheben
F. E. Daugherty	W. A. Lamkin Jr.	Leon J. Shaikun
Louis B. Dugan	Robert E. Lee	Ray O. Shehan
R. R. Ernst	Harvey D. Leonard	Faust Y. Simpson

Bruce Sloan	W. St. Clair Stuart	Porter Wallace
Otto Smither	T. M. Swope	Harry F. Walters
E. T. Sparks	Otis C. Thomas	Henry Ward
G. C. Springate	Erna E. Tyra	H. L. Waterfield
J. Claude Stacy	J. Wood Vance	Otis White
Ray J. Stengel	Walter R. Vansant	James H. Woods
Henry Stewart	S. J. Wagner	–83

Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced that he had referred bills and resolutions previously introduced or reported from the Senate, as follows:

H. B. 377. To Committee on Kentucky Statutes No. 1.

H. B. 378. To Committee on Eduction No. 1-A.

H. B. 379. To Committee on Kentucky Statutes No. 1.

H. B. 380. To Committee on Judiciary.

H. B. 381. To Committee on Revenue and Taxation No. 1.

H. B. 382. To Committee on Revenue and Taxation No. 1.

H. B. 383. To Committee on Public Health No. 1.

H. B. 384. To Committee on Codes of Practice.

H. B. 385. To Committee on Codes of Practice.

H. B. 386. To Committee on Kentucky Statutes No. 1.

H. B. 387. To Committee on Kentucky Statutes No. 1.

H. B. 389. To Committees on Cities of the First, Second, and Third Classes.

S. B. 23. To Committee on Kentucky Statutes No. 1.

S. B. 74. To Committee on County and City Courts.

S. B. 81. To Committee on Revenue and Taxation No. 1-A.

S. B. 120. To Committee on Education No. 1.

H. Res. 69. To Committee on Claims.

H. Res. 70. To Committee on Claims.

H. Res. 71. To Committee on Claims.

H. Res. 72. To Committee on Claims.

H. Res. 73. To Committee on Claims.

H. Res. 74. To Committee on Claims.

H. Res. 75. To Committee on Claims.

H. Res. 82. To Committee on Claims.

The following bills and resolutions were introduced, viz.:

By Mr. Morgan.

H. R. 84. Resolution authorizing Albert Bowman to sue the Commonwealth of Kentucky.

Said Resolution is as follows, viz.:

WHEREAS, on August 3, 1932, in Owsley County, Kentucky, and near the Lee County line, the State Highway Commission, while repairing and constructing a large culvert across the main highway, negligently and carelessly left a large ditch three or four feet deep and about that wide with construction debris of rock, dirt and other materials on each side of said ditch, the said Highway left the same unguarded and unlighted with no red-lights or other warning signs whatsoever in the night time after having been duly warned that said unguarded and unlighted ditch would probably cause some one to be killed before daylight, and knowing same was dangerous to human life in ordinary use of said highway, and in this condition Albert Bowman, while driving along said highway in the night time, and did not know and could not see said ditch, his automobile was caused to run into said ditch and turned over several times and did permanently injure his wife Rosa Bowman and by X-rays and examinations by several physicians it was shown her sacro-iliac (pelvic hip joints) were broken and she was hurt internally and in her brain and skull and otherwise injured permanently and was unable on account of said injuries to do her housework and general duties as mother, wife, all of which caused said Albert Bowman to lose her services, society, consortium and did thereby damage him to the sum of five thousand dollars ($5,000).

NOW in order that said Albert Bowman may by and through the courts of law of this commonwealth or by compromise with its duly constituted and proper authorities may

determine the actual amount of his damages by reason of his wifes services, society, and etc., as above set out,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That—

Albert Bowman be and is hereby empowered and authorized to file suits against the Commonwealth of Kentucky and the State Highway Commission, and the Department of Highways, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such damage, if any there be arising from the loss of his wife's services as above set out; and in the event judgment is recovered or same is compromised and settled, the judgment or amount agreed on in compromise, if any, shall be paid by a warrant drawn on the State Treasury by the Commissioner of Finance and paid out of the general fund.

Said action may be brought in any county having jurisdiction of the parties and subject matter. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjudged with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

By Mr. Morgan.

H. R. 85. Resolution authorizing the personal representative of Grant Judd, Augustus Mainous and William Flannery to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, in June, 1938, Grant Judd, Augustus Mainous and William Flannery were riding in a passenger automobile in the county of Owsley, State of Kentucky, and proceeding from the town of Beattyville to the town of

Booneville, Kentucky, on a state-maintained highway, and while so doing the said automobile was caused to be wrecked and overturned and thereby injuring said Grant Judd, Augustus Mainous and William Flannery, that they then and there and within a few minutes thereafter, died; and

WHEREAS, the said wreck and consequent death of the said Grant Judd, Augustus Mainous and William Flannery was caused and contributed to by and through the gross negligence of the Department of Highways at and about said place of wreck, in the negligent construction and maintenance of said highway, and by its negligence in failing to put out any red flags or any other danger signs and in placing trucks and other implements on and around said place without any warning signs whatsoever, and with no signs indicating "Men Working", and by and through the said negligence and carelessness of the Department of Highways and the Commonwealth of Kentucky, the said Grant Judd, Augustus Mainous and William Flannery lost their lives; now

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the personal representative and duly appointed administrator of the estates of the said Grant Judd, Augustus Mainous and William Flannery be and are empowered and authorized to file suit against the Commonwealth of Kentucky and the Department of Highways thereof, for such damage, if any there be, arising from the negligent acts of the defendants, if any, which caused the deaths of the aforesaid Grant Judd, Augustus Mainous and William Flannery; and in event there is a recovery against the defendants or either of them, or if the same is compromised or settled, or if a judgment be obtained through the courts or by compromise, the amount agreed upon shall be paid by warrant drawn on the State Treasury by the Commissioner of Finance and paid out of the General Fund.

§ 2. Said actions may be brought in any county of this

Commonwealth having jurisdiction of the parties and subject matter. Either party to any suit brought under this resolution may appeal from any judgment that may be entered therein as in any other civil action, and the case may be settled and adjusted with the consent of the Attorney General of Kentucky in the same way as any other suit.

By Mr. Bevins.

H. Res. 86. Resolution directing the Governor to designate Kentucky Poetry Day.

Said resolution is as follows, viz.:

Whereas, Kentuckians at all times are delighted to honor their men and women who have achieved distinction in any calling or profession, and

Whereas, the poets of Kentucky are doing and have done much to elevate the thought of mankind and for moral uplift and religious thinking, and

Whereas, it is desirable that we become better acquainted with the literature produced by Kentucky poets, and

Whereas, it is fitting, desirable and a sound policy that Kentucky preserve and honor the memory of her poets, and

Whereas, some of their writings have immortalized Kentucky throughout the civilized world and should be commemorated with suitable public exercises.

Now, Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the Governor of the State of Kentucky is hereby authorized to designate annually the seventh day of April as Kentucky Poetry Day and call upon the citizens of the Commonwealth to observe it with suitable exercises.

By Mr. Brim.

H. B. 416. An Act to repeal sections 165b-2 to 165b-11

inclusive and 165b-13 to 165b-22, inclusive of Carroll's Kentucky Statutes, 1936 Edition; to repeal Chapter 44 of the Acts of 1938, compiled as sections 165c-1 to 165c-24 of Baldwin's Kentucky Statute Service, May 1938; and to amend sections 4618-22 and 4618-120 of Carroll's Kentucky Statutes, 1936 edition, relating to Barbers and Beauty Specialists.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Sections 165b-2 to 165b-11, inclusive, and 165b-13 to 165b-22, inclusive, of Carroll's Kentucky Statutes, 1936 edition, and Chapter 44 of the Acts of 1938, compiled as sections 165c-1 to 165c-24 of Baldwin's Kentucky Statute Service, May 1938, are repealed.

§ 2. Section 4618-22 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Boards to be included in department of health. The Kentucky Crippled Children's Commission, the State Board of Examiners for Nurses, the Board of Chiropractor Examiners, the State Board of Dental Examiners, the Board of Embalming of Kentucky and the Kentucky Board of Pharmacy are transferred to and shall be included in the Department of Public Health and constitute divisions thereof, but each of said boards shall continue to exercise all of the powers, rights and functions with relation to their respective business or professions, and their successors in office shall be appointed in the manner and form as provided by law, but shall exercise no other power or functions with relation to said Department of Health.

§ 3. Section 4618-120 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Division of professional regulation. The division of professional regulation, headed by a secretary, under the supervision of the Commissioner of Business Regulation shall

supervise the licensing of all architects, accountants, chiropractors, dentists, embalmers, trained nurses, pharmacists, and veterinary examiners. The Board of Examiners and Registration of Architects, the Board of Accountancy, the Board of Chiropractic Examiners, the State Board of Dental Examiners, the State Board of Embalmers of Kentucky, the State Board of Examiners of Trained Nurses, the Kentucky Board of Pharmacy, and the State Board of Veterinary Examiners, shall continue as separate agencies, financed as provided by law; but shall be required to clear all matters of administration, except the examination of applicants for licenses, through the division of professional regulation in a manner approved by the Commissioner of Business Regulation.

The office of the secretary of the division of professional regulation shall be financed by assessments on the professional groups named herein on an equitable basis approved by the Commissioner of Finance.

In the event any appointments to boards authorized by law, whether named in this section or not, are made from lists submitted to the Governor, the Chief Executive may reject any such list and require submission of other lists.

By Mr. Brooks.

H. B. 417. An Act permitting a county board of education to levy a general tax of not more than the maximum levy for county school districts increased by not more than the lowest of the subdistrict levies.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

In every county school district where all of the subdistricts thereof levy a special tax, the board of education of the county district may, in its option, abolish all of the special

levies of the subdistricts and in lieu of the said special levy or levies and the regular or general county levy the county board of education may levy a general tax of not more than the maximum levy permitted for county school districts increased by not more than the lowest of the subdistrict levies.

Inasmuch as school budgets must be made on or before March 20, an emergency is declared to exist and this act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Roll.

H. B. 418. An Act repealing, amending and re-enacting Section 388, Carroll's Kentucky Statutes, 1936 Edition, relating to purchase of record books used by Circuit and County Court Clerks.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Repeal, amend and re-enact section 388 Carroll's Kentucky Statutes 1936 Edition so that when amended and re-enacted it shall read as follows:

The record-books required by the Circuit and County Court Clerks shall be procured by the Clerk upon the order of the Court of which he is Clerk, and shall be paid for in the following manner: That the costs of record books shall be paid for by the State when the State receives the fee, fine, or tax accruing from their use and the cost of other record books, shall be paid for by the respective counties of which record books are purchased.

By Mr. Brown.

H. B. 419. An Act relating to cities of the first class, authorizing the legislative bodies thereof to submit to the voters

the question of incurring an indebtedness exceeding the income in any one year, providing the manner in which said election shall be held, the number of votes necessary, the mode of creating such indebtedness and of the levying and collecting of taxes to retire the indebtedness.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

If, in any year, the legislative body of any city of the first class shall deem it necessary to incur any indebtedness, the payment of which cannot be met without exceeding the income and revenue provided for the city for that particular year, it shall, by ordinance, order an election by the qualified electors of the city to be held, to determine whether such indebtedness shall be incurred. Such ordinance shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as herein provided. Such ordinance shall be published for at least two weeks just preceding the election in a newspaper of daily circulation in such city. Upon filing by the city of a certified copy of an ordinance ordering such an election with the county clerk of the county in which such city is located, thirty days prior to any regular election, it shall be the duty of the county clerk to cause to be printed upon the ballots, to be used in the city precincts of such county at such election, the question of the issuance of bonds by said city as proposed by such ordinance. The expenses thereof shall be paid as other election expenses are paid. The election shall be held in the manner provided by general law for submitting public measures to a vote of the people, and shall be held at the same time and place, and in the same manner, and by the same officers as the regular election of that year. The votes on said question shall be canvassed and certified by the election officers in the same manner as votes cast in the

regular election. It shall be the duty of the county board of election commissioners to canvass the returns of the election on said question, and certify the result thereof at the same time and in the same manner as the returns of the regular election.

If, upon a canvass of the votes cast at such election, it appears that two-thirds of all the qualified voters of said city, voting on said question, shall have voted in favor of incurring such indebtedness, the legislative body of such city may incur such indebtedness and issue bonds of the city in evidence thereof, and it shall be the duty of the legislative body of such city to pass an ordinance providing for the mode of creating such indebtedness and of paying of same. But such indebtedness shall not, in any event, exceed the limit provided in the Constitution for cities of the first class. In such ordinance provision shall be made for the levy and collection of an annual tax upon all property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than forty years from the time of contracting the same. It shall be the duty of the legislative body of such city in each year thereafter, at the time at which other taxes are levied and collected, to levy and collect a tax sufficient for such purpose in addition to the taxes by Chapter 89-1 of Carroll's Kentucky Statutes authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

By Mr. Brown.

H. B. 420. An Act to repeal, amend and re-enact Section 2993, Carroll's Kentucky Statutes, Baldwin's 1936 Edition, as repealed, amended and re-enacted by the Acts of 1938, Chapter 82, Regular Session.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 2993 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, as repealed, amended and re-enacted by the Acts of 1938, Chapter 82, regular session be and the same is hereby repealed, amended and re-enacted, so that said Section, as amended and re-enacted, shall read as follows:

Section 2993.—Board of Equalization; number of vacancies; power.—The Board of Equalization shall consist of three citizens of the City, to be elected annually in July by the Board of Aldermen. They may be removed by the Board of Aldermen. Vacancies caused by such removal, or by death, resignation or departure from the City, shall also be filled by the Board of Aldermen. The Board of Aldermen may compensate the members of said Board out of the treasury at a rate not exceeding Ten Dollars ($10.00) for each day's service. Two members shall make a quorum. If two or all of the members of the Board fail to attend, the mayor may, by writing, under his hand, appoint others to take their places for the time being. The Board, when made up in whole or in part of such appointees, may reduce or increase assessments, as provided for in the next preceding Section.

The Chairman of the Board is hereby authorized to summon and swear witnesses and to hear such evidence as may be competent with reference to any matters pertaining to the assessment of property.

The Board of Equalization shall convene September fifteenth, or on the next succeeding day of such years when September fifteenth falls on Sunday, and shall close its sessions on October thirty-first following, except when October thirty-first falls on Sunday, and in such years it shall close its sessions on October thirtieth.

By Mr. Barry.

H. B. 421. An Act to provide for the safe operation of stationary power plants and to safeguard life, health and property and the prevention of disastrous accidents in the operation of power plants, creating a Kentucky State Board of Examiners for Stationary Power Engineers and Boiler Operators; defining its powers and duties; fixing compensation of members of said board and employees to be appointed by it; classifying and defining license for stationary power engineers and boiler operators; requiring license therefor and fixing the amount of license fees for the purpose of administering this Act; authorizing the issuance, suspension and revocation of licenses; imposing prohibitions, restrictions and regulations, and fixing penalties for violation of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever used in this Act, unless the context requires otherwise:

(a) The term "Board" shall mean the KENTUCKY STATE BOARD OF EXAMINERS FOR STATIONARY POWER ENGINEERS AND BOILER OPERATORS, provided for in this Act.

(b) A horse power or capacity as used in this Act shall mean the combined horse power, according to the rating of the American Society of Mechanical Engineers, herein abbreviated, A. S. M. E., of any Stationary Power Plant.

(c) A boiler horse power as used in this Act shall mean ten (10) square feet of boiler heating surface.

(d) The term Stationary Power Plant, as used in this Act shall mean all Power Plants having a combined horse power of A. S. M. E. rating, including steam boilers, steam engines, steam turbines of more than thirty (30) horse power, regardless of pressure, or stationary refrigerating or air

conditioning machine or machines, irrespective of motive power, of more than twenty-five (25) tons refrigerating capacity, or any compressor or compressors having a rating in excess of five hundred (500) cubic feet per minute, or a stationary internal combustion engine or engines of more than one hundred and fifty (150) horse power, or an air compressor or compressors which requires thirty (30) horse power or more to drive same and operating in excess of fifty (50) pounds gauge pressure per square inch, or hydraulic equipment operating in excess of one hundred (100) pounds gauge pressure per square inch, or Electrical Generating Plant and Switchboard for power and lighting purposes, other than steam driven generating plants, where the plant is manually operated, and where the connected capacity is one hundred (100) K. W., or more, and where the voltage is Two Hundred (200) volts or more.

§ 2. There is hereby created a Board of Examiners for Stationary Power Engineers and Boiler Operators to be known as the KENTUCKY STATE BOARD OF EXAMINERS FOR STATIONARY POWER ENGINEERS AND BOILER OPERATORS, whose duty it shall be to administer the provisions of this Act.

§ 3. The Board shall consist of five stationary power engineers, one of whom shall be the chief examiner, and the remaining four shall be district examiners. Not more than three of the Board shall be of the same political party. The Governor shall appoint the chief examiner, who, in turn, shall appoint the district examiners, with the Governor's approval. The term of the chief examiner shall be for a period of four years from the date of his appointment, and that of each of the district examiners for a like term, provided, however, that the district examiners first appointed pursuant to this Act shall be appointed, one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years from the date of their respective appointments.

Each member of the Board shall hold office until their successors are duly appointed and qualified. Each member of the Board shall receive a certificate of his appointment from the one empowered to appoint him, and before beginning his term of office, shall file with the Secretary of State his written oath or affirmation for the faithful discharge of his official duties. Each member of the Board, first appointed hereunder, shall receive a certificate of license under this Act from said Board. On the expiration of the term of any member of the Board, or upon his resignation, removal, or death, the vacancies in the membership of the Board shall be filled in the manner provided for in the original appointment, provided, nothing herein shall preclude the appointment of any member.

§ 4. Each member of the Board shall be a citizen of the United States and a resident of the Commonwealth of Kentucky for ten consecutive years immediately prior to appointment, and must be a continuous resident of such State during his term of office, and shall have been an operating Stationary Power Engineer in the Commonwealth of Kentucky with not less than ten years experience, and shall have been in responsible charge of important Stationary Power Plants for at least five years. All members of the Board must be licensed first-class Stationary Power Engineers.

§ 5. The Board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least two regular meetings each year. Special meetings shall be held at such time as the By-Laws of the Board may provide. Notice of all meetings shall be given in such manner as the By-Laws may provide. The Chief Examiner shall be Chairman of the Board. The Board shall elect or appoint from its members annually, a Vice-Chairman, and shall elect or appoint a Secretary-Treasurer, who need not be a member of the Board. A quorum of the Board shall consist of not less than three members, but action shall not be deemed to have been taken upon any question until there are at least three votes in accord.

§ 6. The Board shall have the power to adopt By-Laws and rules of procedure and make amendments thereto not inconsistent with this Act and the Constitution and the Laws of the Commonwealth of Kentucky.

§ 7. The Chief Examiner shall receive a salary of four thousand dollars ($4,000.00) per annum, and each District Examiner a salary of three thousand dollars ($3,000.00) per annum, payable in equal monthly installments. Subject to the provisions of Section 6 of Article X, of Chapter 1, and Section 8 of Article XVI, of said Chapter, of the 1936 first Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, known as the Governmental Reorganization Act, the Board shall have authority to provide suitable quarters for its work, and to employ such inspectors, clerks or assistants as it may deem necessary to carry out the provisions of this Act, and to fix their compensation, and that of the Secretary-Treasurer. The members of Board and its employees shall be reimbursed for their necessary traveling expenses incurred in the administration of this Act, subject to such restrictions as is required of other officers of the Commonwealth as to traveling expenses. The salaries and expenses incurred in the administration of this Act shall be payable only from the fund created by fees collected in the administration of this Act, and any excess in said fund over the said salaries and expenses shall at the end of each fiscal year of the Commonwealth be covered into the General Fund, provided, however, with the consent of the Commissioner of Finance, there may be left in said fund an amount to cover the salaries and expenses of said Board until the fees provided for by this Act in the succeeding fiscal year shall be collected into an amount sufficient, in the judgment of said Commissioner of Finance, to provide for such salaries and expenses, at which time there shall be covered into the General Fund the amount of such excess fees which the Commissioner of Finance allowed such Board to retain as herein provided at the beginning of the fiscal year of the Commonwealth.

Under no circumstances is the Board authorized to contract any debt, or incur any expense, which together with the expenses and compensation provided for in this Act shall in the aggregate exceed the amount of funds derived under the provisions of this Act.

§ 8. The Secretary-Treasurer of the Board shall receive and account for all money collected under the provisions of this Act and shall pay the same into the State Treasury monthly, between the 1st and 15th of each month, to be credited to a revolving fund, as provided in Section 14, Article 3 of the Budget and Financial Administration Act of 1934. The withdrawal and use of said funds shall be in the manner authorized by said Budget and Financial Administration Act of 1934, and the Governmental Reorganization Act of 1936. The Board shall be subject to the provisions of Section 8 of Article XVI of said Reorganization Act. The Secretary-Treasurer shall give a surety bond to the Board in such sum as the Board may determine. The premium on said bond shall be required as a proper and necessary expenditure of the Board.

§ 9. The Board shall keep a record of its proceedings and a register of all applications for registration. This register shall show (a) the name, age and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his education and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate or license was granted; (h) the date of the action of the Board; and (i) such other information as may be deemed necessary by the Board.

The record of the Board shall be prima facie evidence of the proceedings of the Board, set forth therein, and a transcript thereof, duly certified by the Secretary of the Board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

Annually, as of June 30th, the Board shall submit to the Governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the Board, attested by affidavits of its Chairman and Secretary-Treasurer.

§ 10. A roster showing the names and places of business of all licensed Stationary Power Engineers and boiler operators shall be published by the Secretary of the Board annually. Copies of this roster shall be mailed to each person so registered, placed on file with the Secertary of State and furnished to the public upon request.

§ 11. The Board, or a majority thereof, shall have the power to examine the qualifications of applicants for license or licenses as Stationary Power Engineers and Boiler Operators and grant licenses in accordance with the applicant's qualifications and for just cause suspend or revoke same.

§ 12. After the first day of December, One Thousand Nine Hundred and Forty, it shall be unlawful for any person, or persons, or firm or corporation to operate or permit to be operated in the Commonwealth of Kentucky, Stationary Power Plants having a combined horse power of A. S. M. E. rating, including steam boilers, steam engines, steam turbines of mor than thirty (30) horse power regardless of pressure, or stationary refrigerating or air conditioning machine or machines, irrespective of motive power of more than twenty-five (25) tons refrigerating capacity, or any compressor or compressors having a rating in excess of five hundred (500) cubic feet per minute, or a stationary internal combustion engine or engines of more than one hundred and fifty (150) horse power, or an air compressor or compressors which requires thirty (30) horse power or more to drive same and operating in excess of fifty (50) pounds gauge pressure per square inch, or hydraulic equipment operating in excess of one hundred (100) pounds gauge pressure per square inch, or Electrical Generating Plant and Switchboard for power and lighting purposes, other than steam driven generating plants,

where the plant is manually operated and where the connected capacity is 100 K. W., or more and where the voltage is Two Hundred (200) volts or more, unless it is directly in charge of a duly licensed Stationary Power Engineer or Boiler Operator as provided for in this Act.

§ 13. There shall be three classes of Stationary Power Engineers license and one class of Boiler Operator's license, to-wit:

(a) A first-class Stationary Power Engineer's license shall allow the holder to be chief engineer, and shall be issued to any person when found competent as a result of his experience and examination as herein provided, by the Board to take charge and operate a Stationary Power Plant of unlimited capacity.

(b) A second-class Stationary Power Engineer's license shall be issued to any person when found competent as a result of his experience and examination as herein provided, by the Board, to take charge and operate a Stationary Power Plant having a combined horse power up to and including Seven Hundred and Fifty (750) rated horse power, or as operating-running, or watch engineer in a Stationary Power Plant of unlimited capacity, under the direct supervision of a chief engineer, holding a first-class license.

(c) A third-class Stationary Power Enginer's license shall be issued to any person when found competent, as a result of his experience and examination as herein provided, by the Board, to take charge and operate a Stationary Power Plant having a combined horse power up to and including Five Hundred (500) rated horse power, or as operating-running or watch engineer in a Stationary Power Plant having a combined horse power up to and including Seven Hundred and Fifty (750) rated horse power, under the direct supervision of a person holding a second-class license, or as operating-running, or watch engineer in a Stationary Power

Plant of unlimited capacity, under the direct supervision of a chief engineer holding a first-class license.

(d) A Boiler Operator's license shall be issued to any person when found competent, as a result of his experience and examination as herein provided, by the Board, to take charge and operate or maintain any and all stationary boilers having a combined horse power up to and including Two Hundred and Fifty (250) rated Boiler horse power or less, or as Boiler Operator in Stationary Power Plants under the direct supervision of a first, or second, or third, class Licensed Stationary Power Engineer.

§ 14. An applicant is qualified for a license as a Stationary Power Engineer or Boiler Operator of the respective class or classes as herein provided when:

(a) He shall have satisfied the Board that he is at least twenty-one (21) years of age, and is of good moral character and reputation and has at least one year's practical experience in the operation and management, or construction of Stationary Power Plants and equipment.

(b) He shall have successfully passed a written, or oral, or written and oral examination designed to show knowledge and skill in the practical operation and construction of Stationary Boilers, Stationary Engines and Stationary Turbines operated by gas, steam, or oil; electricity, pumps, refrigeration and motors; freight and passenger elevators; air compressors; and electrically driven equipment; hydraulics and pneumatics.

Each application for an examination and license under this Act shall be on forms prescribed and furnished by the Board; shall contain statements made under oath, showing the applicant's name, age and residence and the extent of his education and his experience in the operation and construction of Stationary Power Plants, and shall contain not less than three references of whom two or more shall be Stationary Power Engineers having personal knowledge of his Stationary Power Plant or Boiler experience.

The examination fee for all classes of Stationary Power Engineers and Boiler Operators shall be $5.00 which shall be paid to the Board and must accompany applicant's request for an examination.

The license fee for all classes of Stationary Power Engineers and Boiler Operators shall be $5.00 per year, and shall be renewed annually, on or before Aug. 1st of each year, beginning Aug. 1, 1941, but without examination. All license fees shall be paid to the Board as provided for in this Act.

§ 15. Each Stationary Power Engineer and Boiler Operator in the Commonwealth of Kentucky, within six months after this Act becomes effective, who shall submit proof under oath and in affidavit form to the Board showing that he is at least twenty-one (21) years of age and of good moral character and reputation, and that he is qualified and was operating Stationary Power Plants in the Commonwealth of Kentucky at the time this Act shall go into effect shall be entiled to an original license according to his classification, as hereinafter outlined, without taking an examination, either written or oral, upon the payment of the regular license fee of $5.00 to the Board at the time of applying for said license.

An original license shall be granted without examination as set out in this section, to those who have had a least one year's experience in the classification in which he seeks an original license provided his experience has been within three years immediately prior to the passage of this Act.

§ 16. Examinations as herein required, shall be held at such time and place as the Board shall determine. The scope of the examination and method of procedure shall be prescribed by the Board with special reference to determine the applicant's ability for the practical supervision, construction and operation of Stationary Power Plants so as to insure the safety of life, health and property.

A candidate failing an examination may apply for re-examination at the expiration of six months on the payment

of an additional examination fee of $5.00. Subsequent examinations and the costs hereof shall be determined by the Board.

§ 17. The Board shall issue a certificate of license on payment of the applicant's fee and license fee as provided for in this Act to any applicant who has satisfactorily met all the requirements of this Act.

The license shall have the full name of the holder thereof, and it shall have a serial number; shall be signed by the Chairman and Secretary-Treasurer of the Board under seal of the Board. The issuance of a license by this Board shall be prima facie evidence that the person named therein is entitled to all rights and privileges of a Stationary Power Engineer or Boiler Operator according to his classification while the said license remains unexpired, unsuspended or unrevoked.

Certificates of license shall expire on the last day of the month of July following their issuance, and shall become invalid on that day unless renewed.

It shall be the duty of the Secretary-Treasurer of the Board to notify every person licensed under this Act of the date of the expiration of his license and the amount of fee that shall be required for its renewal for one year. Such notice shall be mailed at least one month in advance of the date of the expiration of said license. Renewals may be effected at any time during the month of July by the payment of the regular license fee of $5.00. The failure on the part of any license holder to renew his license annually in the month of July, as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a license after the month of July shall be increased 10% for each month or fraction of a month that payment or renewal of license is delayed; provided, however, that the maximum fee for delayed renewals shall not exceed twice the normal renewal fee.

License holders failing to renew licenses within one year after expiration shall be required to furnish the Board with

satisfactory evidence that they are of good character and reputation and will continue to uphold the ethics of the profession. If the evidence submitted is unsatisfactory, to a majority of the Board, a certificate of license will not be renewed.

After this Act shall have been in effect six months, the Board shall issue certificates of license only as provided for in Section 13 hereof.

§ 18. The Board shall have power to suspend or revoke the license of any holder thereof who is found guilty of:

(a) The practice of any fraud, or deceit in obtaining a license;

(b) Any gross negligence; incompetency or misconduct in the operation of Stationary Power Plants or Boilers;

(c) Or who has become insane, or is addicted to the liquor or drug habit to such a degree as to render him unfit to discharge his duties;

(d) Conviction of a felony;

(e) For any violation of any of the provisions of this Act.

§ 19. All charges for violation of this Act shall be in writing, and shall be sworn to by the person making them, and shall be filed with the Secretary-Treasurer of the Board.

The time and place for all hearings shall be fixed by the Board and a copy of the charges together with a notice of the time and place of hearing shall be personally served on, or mailed to the last known address of such license holder at least thirty days before the date fixed for the hearing.

At any hearing the accused license holder shall have the right to appear personally and by counsel to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. The rules of evidence as provided by law shall prevail. The Board shall have the power to subpoena witnesses and on their failure to attend or testify, to certify their contumacy to the Franklin Circuit

Court which shall have power to punish said witnesses for contempt as Courts do in like situations.

If, after such hearing, three or more members of the Board vote in favor of finding the accused guilty, the Board shall suspend or revoke the license of such Stationary Power Engineer or Boiler Operator.

A record of the charges filed, of the evidence heard, and of all steps taken shall be kept by the Board. They shall file as a part of the record a finding of fact, which, if supported by substantial and relevant evidence, shall be final and binding upon the Courts in any review.

A party aggrieved by the action of the Board in denying, suspending or revoking his license may, within fifteen (15) days after the entry of the order of the Board on its records denying, suspending or revoking the license, file with the Clerk of the Franklin Circuit Court an attested copy of the record of the Board covering such denial, suspension or revocation, which record it shall be the duty of the Board to furnish the said party on the payment by him of the costs of said record, which shall not exceed thirty cents (30c) a page. The said Clerk of said Court shall thereupon docket the case as though it were a petition in equity, and shall immediately issue a summons for said Board. Said summons shall be returnable in the same manner as are summonses in cases in Equity. No formal pleadings shall be required in such appeals, but the case shall be set down by the Court for as early a day as possible for a hearing, and such appeal shall in all respects be expedited as are declaratory judgment suits. No new or additional evidence may be introduced in the Circuit Court except as to the fraud or misconduct of some party engaged in the administration of this Act, and affecting the order appealed from, and shall otherwise hear the case upon the record as attested by the Board, and shall in all respects dispose of the appeal in a summary manner, its review being limited to determining whether or not:

(a) The Board acted without, or in excess of, its powers;

(b) The order appealed from was procured by fraud;

(c) If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.

After such hearing, the Court shall enter a judgment sustaining or setting aside the order of the Board. The Board or any party aggrieved by judgment of the Circuit Court may appeal to the Court of Appeals in the same manner that appeals are taken under the declaratory judgment Act.

§ 20. Upon application in writing, the Board for reasons it may deem sufficient may re-issue a license to any person whose license has been revoked, providing three or more members of the Board vote in favor of such reissuance. A new certificate of license to replace any license suspended, revoked, lost, destroyed or mutilated may be issued subject to the rules of the Board. A charge of not to exceed $2.00 shall be made for such issuance.

§ 21. Any person holding a license issued by another State, comparable to any of the licenses as herein provided, which said license is based on substantially the same requirements as are provided for licenses in this Act, may have a license of the class comparable to the license he holds from the other State issued to him upon such application, as the Board may prescribe, and the payment of the license fee as herein provided, but without examination, provided, however, that the State from which said applicant holds said license grants equal recognition and rights, as provided in this Section, to holders of licenses from this State who are applicants for licenses in said foreign State.

§ 22. It shall be the duty of the Board to see that each Stationary Power Plant or Boiler in the Commonweatlh of Kentucky has a licensed Stationary Power Engineer or Boiler Operator, as provided herein, in charge at all times during operation, whose license shall be displayed in a conspicuous place in the engine or boiler room. Any Stationary Power

Engineer, or Boiler Operator, refusing or neglecting to so display his license shall be fined $5.00 for each offense.

For the purpose of an inspection as authorized by law, the Board, or members of the Board, or their representatives, may enter upon the premises and into any building or room thereof at all reasonable hours.

§ 23. No firm, or company, or partnership, or corporation, can be registered under this Act.

§ 24. Any person, firm, or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten Dollars ($10.00), nor more than Two Hundred Dollars ($200.00), and each day's violating of any provision of this Act shall constitute a separate offense.

§ 25. The provisions of this Act shall not apply to Stationary Power Plants and Boilers, and to operators of same under the jurisdiction of the United States, nor to locomotives or cranes used as rolling stock; nor shall it cover portable equipment, nor Stationary Power Plants and Boilers used on roads and farms.

The practice of Stationary Power Engineering and Boiler operating shall not include the work ordinarily performed by professional engineers such as consulting, investigating, evacuating, planning, designing nor responsible supervision of construction work and projects of all kinds, nor such work embraced within the practice of land surveying.

§ 26. The provisions of this Act are severable and if any section or sections of this Act shall be declared unconstitutional or invalid by the Court, this shall not invalidate any of the remaining provisions of this Act. It is hereby declared as a legislative intent that the Act would have been adopted had not such unconstitutional provisions been included therein.

§ 27. This Act may be cited as the "Stationary Power Engineers and Boiler Operators Act of 1940."

§ 28. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed.

By Mr. Hunnicutt.

H. B. 422. An Act relating to transportation and delivery of alcoholic and malt beverages, and providing that the license issued by the Commonwealth of Kentucky authorizing the transportation and delivery of alcoholic and malt beverages shall be exclusive, and that no county, municipality, or taxing district shall impose any license or tax which will interfere in any manner with the acts authorized by §§ 2554b-120, 2554b-124, 2554b-199, 2554b-202 of Carroll's Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any person, firm, partnership or corporation who has been issued, or is the holder of a distilled spirits and/or beer transporter's license, as referred to in §§ 2554b-120, 2554b-124, 2554b-199 and 2554b-202 of Carroll's Kentucky Statutes shall be permitted to perform the acts authorized by said licenses without the payment of any occupational or loading tax, or any additional license fees or taxes imposed by any county, taxing district, or municipality of the Commonwealth of Kentucky.

By Mr. Tyra.

H. B. 423. An Act to limit the amount of compensation paid to any husband and wife jointly to $150.00 per month.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That after the effective date of this act, no husband and

wife shall be both employed by the Commonwealth of Kentucky whose combined salaries exceed $150.00 per month.

In any instance where such salary exceeding $150.00 per month is paid to any husband and wife, the Commonwealth of Kentucky shall be entitled to recover all over $150.00 per month paid to such employes or agents or officers, by an appropriate action filed in the Franklin Circuit Court.

By Mr. Baker.

H. B. 424. An Act to amend section 495 of Carroll's Kentucky Statutes, 1936 edition, relating to conveyances.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 495 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) All deeds, mortgages and other instruments of writing which are required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the office of the county court clerk of the county in which the property, or the greater part of it, is located.

(2) Each deed conveying an interest in real estate equal to or greater than a life estate shall plainly specify and refer to the next immediate source from which the grantor or grantors derive title to the interest conveyed. If the source of title is a deed or other recorded writing, the deed offered for record shall specify and refer to such former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein was obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title was obtained by the grantor or grantors. If the title was obtained from two or more sources, the deed offered for record shall

specify and refer to each of the sources, in the manner required by this subsection.

(3) No grantor shall lodge for record and no county court clerk or deputy shall receive or permit to be lodged for record, any deed that does not comply with this section. Any grantor, county court clerk, or deputy who violates this subsection shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. Only the clerk or deputy who actually files the deed for record shall incur the penalty of this subsection, and no clerk or deputy shall be fined because of any erroneous or false references, or because of the omission of a reference required by this Act, where it does not appear on the face of the deed that title was obtained from more than one source.

(4) This act applies to deeds made by any court commissioner, sheriff or officer of court in pursuance of his official duties.

(5) This Act does not apply to any deed or instrument made and acknowledged before the passage of this Act, and does not invalidate any deed lodged contrary to its provisions.

By Mr. Shaikun.

H. B. 425. An Act to repeal, amend and re-enact Section 2852 of the Kentucky Statutes, Baldwin's 1936 Revision, pertaining to cities of the first class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 2852 of the Kentucky Statutes, Baldwin's 1936 Revision, be repealed, amended and re-enacted so that when repealed and re-enacted said section shall read as follows:

Section 2852. Condemnation of Property. Whenever, in the opinion of the board of park commissioners, property

shall be needed for any park purposes contemplated in this act, whether within or beyond the boundaries of the city, in the county in which such city is located, the said board may, by resolution reciting such need, order the condemnation of such property, and proceedings for such condemnation shall be in the Jefferson circuit court, and conducted in the name of said board by the city attorney. Such proceedings shall be commenced by petition and summons, and carried on as nearly as may be as actions at law by ordinary proceedings are conducted. Non-residents, absent defendants or unknown owners of property shall be proceeded against by warning order as in other civil actions. In such proceedings for condemnation, the owners of distinct parts of any one general tract sought to be condemned may be included in one proceeding, or any one or more of them holding contiguous properties may be proceeded against in a separate action. The court in which such proceedings for condemnation are instituted shall make such orders, rules and judgments as will secure a fair trial by an impartial jury, which shall be summoned under order of court. Such jury shall consist of twelve free-holders of such city or county, and such trial for condemnation shall have the precedence on the docket of the court, as soon as the parties are before the court and the issues made up. The jurors in such actions for condemnation shall be sworn to ascertain and determine truly and impartially by their verdict the amount of compensation each owner will be entitled to receive if his land or property described in the petition be condemned. And in assessing damages to the owner of the property so condemned, it shall be competent for the jury to consider the benefits and advantages, if any, that to such owner will result from the proposed improvements, and to set off the same against such damages other than for the value of the property taken. The court in which such proceedings are instituted shall have the power to assign a day for the trial of the case as soon as the petition is filed. Upon return of the verdict of

the jury, the court shall enter judgment vesting in the board of park commissioners of the city the title to the property described and condemned, the said judgment to take effect upon the payment into the court by said board of the amount of money named in the verdict, and the taxed cost of the proceedings, but said board of park commissioners shall have sixty days within which to make said compensation and payment; and if the same be not made within such time, the said condemnation shall be deemed and treated as abandoned, and the verdict and judgment set aside, and proceedings dismissed at the cost of said board; but without prejudice to any subsequent proceedings.

That no proceedings now pending and undetermined for the condemnation of property for park purposes shall be affected by this Act, but the same shall be governed by existing laws.

By Mr. Ward.

H. B. 426. An Act relating to the legal adoption of persons, and repealing sections 2071, 2072, 3072a and 2072b of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. (1) Any adult person who is a resident of Kentucky may petition the county court of the county of his legal domicile for leave to adopt a child or another adult. No petition by a married person shall be granted unless the husband or wife joins therein, excepting that when the petitioner is married to the natural father or mother of the child joinder by the father or mother is unnecessary.

(2) Any person may be adopted after arriving at the age of twenty-one years as well as children before reaching that age.

(3) No petition for the adoption of any minor child shall be granted until the child has lived for a period of twelve months in the home of the petitioner.

(4) The child to be adopted together with its natural living parents, if born in wedlock, but if not, then its mother, if living, and any testamentary or statutory guardian it may have, shall be made party defendants to said original petition for adoption. If said child has no living parents and no guardian, then the person or persons standing in loco parentis thereto shall be made party defendants therein, or if the care, custody and control of said child has been lawfully transferred to any charitable institution or association by a court order, then such charitable institution or association shall be deemed as standing in loco parentis and shall be a party defendant. In such instance the natural parents if child born in wedlock or the mother of such child if born out of wedlock shall not be necessary parties to any such action, but in the absence of any of the above named, the Department of Welfare, or its authorized agent, shall be made a party defendant with said child. Each defendant thereto shall be brought before the court by personal or constructive service in the same way and manner as is provided for in the Civil Code of Practice in other Civil actions.

§ 2. (1) Upon the filing of a petition for the adoption of any minor child the court shall cause an investigation to be made of the former environment and antecedents of the child for the purpose of ascertaining whether he is a proper subject for adoption and of the home of the petitioner to determine whether it is a suitable home for the child. The investigation shall be made by the State Department of Welfare, or by any agency which the State Department of Welfare may authorize to conduct the investigation. The results of the investigation shall be embodied in a full report in writing, which shall be submitted to the court at or prior to the hearing upon the petition and be filed with the records of the proceedings and

become a part thereof. The report shall contain a full statement of facts found in the investigation and a recommendation as to the desirability of the adoption.

(2) Upon the filing of a petition for adoption the court shall appoint a time and place for hearing which shall allow reasonable time of not less than sixty days for the prior investigation provided for in this section. The court shall mail notice of the date of hearing to the State Department of Welfare. The petitioner and the child to be adopted, if fourteen years or over, shall be required to attend the hearing in person, but a younger child shall not be required to attend unless the court so orders.

§ 3. Except as otherwise specified in this section no adoptions shall be permitted except with the notarized consent of the living parent or parents of the child or the mother of a child born out of wedlock or if parents cannot be located after reasonable search, next of kin, guardian or person standing in loco parentis.

(1) In the case of a child fourteen years of age or over the consent of the child must be given in writing in the presence of the court.

(2) Consent shall not be required of the parents of a child when the rights of such parents have been terminated by order of a court of competent jurisdiction; provided, however, that in such case adoption shall be permitted only on the consent of the State Department of Welfare, after a full investigation has been made by it, or some agency designated by it to make such investigation.

(3) If such child has no living parent adoption shall be permitted on the consent of the legal guardian of the child, or if there be no guardian by person standing loco parentis, or if child is destitute of kin or guardian, by the State Department of Welfare, or by an agency or institution approved by it.

(4) In the case of a child, not born in lawful wedlock, consent of the father shall not be necessary, but in such case

adoption shall not be permitted without the consent of the State Department of Welfare, or some agency designated by it to give such consent, after a full investigation of the case has been made by the State Department of Welfare, or of some agency designated by it to make such investigation.

(5) In case the person to be adopted has arrived at the age of twenty-one years the consent of such person alone shall be necessary.

(6) In the case where the consent of a minor parent is required a guardian ad litem therefor shall be required and the consent of such minor parent shall be effective only if concurred in by the guardian ad item.

§ 4. If after the hearing and receiving the required consent of the person whose consent to adoption is necessary the court in every case is satisfied:

(1) That the facts stated in the petition are true and; (2) That all legal requirements relative to adoption have been complied with and in the case of a minor child.

(1) That the petitioners are of good moral character and of reputable standing in the community and of ability properly to maintain and educate the child sought to be adopted,

(2) That the best interests of the child would be promoted by adoption.

(3) That the child is suitable for adoption, the court shall render an order setting forth all the jurisdictional facts and providing that from and after date thereof the child shall be deemed to all legal intents and purposes the child of the petitioners. In the order the name of the child may be changed to that of the parents by adoption.

§ 5. After entry of such order the clerk of the court shall promptly report to the State Board of Health, Bureau of Vital Statistics, full information as to: (1) the prior name of the child, (2) the date and place of birth of the child, (3) the name of the natural parents of the child, (4) the

name and address and occupation of the parents by adoption, (5) the new name of the child, if any, (6) and the date of the order of adoption of the court issuing the same. Upon receipt of the order of adoption the State Board of Health, Bureau of Vital Statistics, shall cause to be made a new record of the birth in the new name, and it shall then cause to be filed the original certificate of birth together with a new certificate which shall set forth the facts above.

§ 6. The child so adopted shall be deemed for purposes of inheritance and succession and for all other legal consequences and incidents of the natural relation of parents and children, the same to all intents and purposes as a child born in lawful wedlock of such parents by such adoption. The adopted parents of such child shall inherit from said children as under the statute of descent and distribution in the same way and manner as if the child has been born of lawful wedlock to the adopted parents; provided, however, if the adopted parents of the adopted child shall not survive the adopted child, then in that event the property of the deceased adopted child without lawful issue shall go to the natural parents in the line of descent and under the same provisions as are now or may hereafter be provided by law for descent and distribution; but in the event that the adopted child without lawful issue shall not be survived by either of its adopted or natural parents, then his property shall descend to his natural brothers and sisters and to the children of his adopted parents, share and share alike. Such child shall be freed from all legal obligations or maintenance and obedience to such natural parents; provided, that where the adoptive parent of such child shall be married to one of the natural parents of such child, then the relation of such child towards such parent shall in no way be altered by such adoption, and the natural rights and obligations of such natural and adoptive parents towards such child shall be the same as if such child were the natural child of both the natural parent and the adoptive parent. Nothing herein

shall be so construed as to prevent the adopted child from inheriting under the general law in regard to the descent and distribution from its natural parents.

§ 7. A subsequent adoption is authorized by this act and in such a case the words "father, mother or parent" include, father, mother, or parent by adoption.

§ 8. The files and records of the court in the adoption proceedings shall not be open to inspection or copy by any person other than representatives of the State Department of Welfare, except upon order of the court expressly permitting inspection or copy. No person having charge of any birth or adoption records shall disclose the name of any adoptive parents appearing in such records or furnish any copy of any such records except upon order of the county court of the county in which the adoption took place.

§ 9. Any executor, administrator, guardian, trustee, or any person aggrieved by any order or judgment of the county court may appeal therefrom to the circuit court within sixty days from the date of the judgment appealed from. The appeal of any minor from an order of adoption may be taken by any person on his behalf or by a guardian ad litem. In an appeal from an order of adoption if the child is a minor the State Department of Welfare shall be served with notice of such appeal. The State Board of Health, Bureau of Vital Statistics shall be notified if the adoption order is reversed.

§ 10. In appeals to the circuit court the appellant other than executor, administrator, guardian or trustee shall before his appeal be effectual file with the county court a bond in such sum with good surety as the judge thereof will approve to the effect that he will diligently prosecute his appeal to effect and pay all damages and costs which may be awarded against him, but no costs shall be awarded against any child, or person acting on behalf of a child, on appeal from such order for adoption.

§ 11. No person, corporation or association shall advertise in any newspaper that they will receive children for

the purpose of adoption. No newspaper published in the Commonwealth of Kentucky or sold in the Commonwealth of Kentucky shall contain an advertisement which solicits children for adoption, or the custody of children.

§ 12. Any person twenty-one years of age may by petition filed in the county court of the county of his residence state in substance that he is desirous of adopting a person twenty-one years of age or over and making him capable of inheriting as heir-at-law of such petitioner; and said court shall have authority to make an order declaring such person heir-at-law of such petitioner, and as such capable of inheriting as though such person were the child of such petitioner; but no such order shall be made if the petitioner be a married man or woman, unless the husband or wife joins in the petition and the person to be adopted files with the petition his or her written consent to the adoption.

§ 13. Any violation of Section 11 hereof shall be punishable by a fine of not less than $10.00 nor more than $100.00, or by confinement in the county jail for a period of not less than thirty days nor more than sixty days, or both fine and imprisonment.

§ 14. Sections 2071, 2072, 2072a and 2072b of Carroll's Kentucky Statutes, 1936 edition, are repealed.

By Mr. Dugan.

H. B. 427. AN ACT relative to printing for the Commonwealth of Kentucky, Counties or political subdivisions thereof; establishing requirements or responsible bidders; prescribing penalties for the violation of the provisions of this Act; repealing all acts and parts of acts inconsistent with the provisions of this Act; and providing for a separability clause.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. All printing for which the Commonwealth of Kentucky, counties, cities or subdivisions thereof are chargeable, or which is paid for with funds appropriated wholly or in part of by the Commonwealth of Kentucky, counties, or political subdivisions thereof, must be printed within the Commonwealth of Kentucky, counties, or cities, where practicable and shall be done by letter-press process.

§ 2. Printing firms shall be required to establish consideration as a responsible bidder on printing for the Commonwealth of Kentucky, counties, cities, or political subdivisions thereof as follows:

(a) As a condition to consideration as a responsible bidder, printing concerns must file with the secretary of State a sworn statement to the effect that employes in the employ of the concern which is to produce such printing are receiving the prevailing wage rate and are working under conditions prevalent in the locality in which the work is produced.

(b) When a collective bargaining agreement is in effect beteewn an employer and employe, and the employes are represented by a responsible organization which is in no way influenced or controlled by the management, such agreement as to wages and hours shall be considered as conditions prevalent in said locality and shall be the minimum requirements for being adjudged a responsible bidder under the law.

§ 3. Any contract for printing with a bidder who is not responsible within the requirements as set forth in this Act shall be considered null and void.

§ 4. All laws and parts in conflict herewith are hereby expressly repealed to the extent of such conflict.

§ 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provisions to other person or circumstances shall not be affected thereby. This Act shall be liberally construed to accomplish the purposes thereof.

By Mr. Hunnicutt.

H. B. 428. An Act relating to Bill-boards and the taxation thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. An annual tax is hereby levied on all bill-boards in the Commonwealth of Kentucky.

§ 2. The tax on bill-boards shall be five cents (5c) per square foot, subject to subsequent provisions of this Act. The area of the bill-boards shall be computed by multiplying the extreme width thereof by the extreme height thereof from the ground.

§ 3. From and after July 1, 1941, the tax on bill-boards within fifty feet (50) of any road on the State road system shall be ten cents (10c) per square foot.

§ 4. The annual tax levied under this bill shall be paid to the Department of Revenue on or before September 15 of each period, and shall be for the fiscal year beginning July 1, and ending June 30 in which the tax is paid.

§ 5. Any person owning a bill-board who shall fail to pay the tax herein levied at the time required herein, shall be subject to a penalty equal to twenty per centum of the amount of tax due and delinquent and, in addition, thereto, interest at six per cent (6%) per annum.

§ 6. The State Highway Commission is authorized to make such rules and require of the owners of bill-boards such reports as will enable the State to collect the tax.

§ 7. Bill-boards as defined in this Act shall include all structures erected and used chiefly as a medium of advertisement, but it shall not include signs and similar forms of advertising posted on or attached to buildings or structures not used chiefly for advertising.

By Messrs. Hunnicutt and Juett.

H. B. 429. An Act to appropriate additional funds out of the General Expenditure Fund to the Division of Parks of the Department of Conservation for the fiscal years ending June 30, 1941 and June 30, 1942.

Said bill is as follows, viz.:

WHEREAS, advertising of the beauties, landscapes, and natural scenery which abound in the Commonwealth of Kentucky is and has been insufficient, and

WHEREAS, historical points of interest likewise are numerous in Kentucky, and advertising thereof has been insufficient, and

WHEREAS, by the advertising of all of these splendid and attractive historical points and natural beauties will, by an extensive program of advertising, attract tourist trade and traffic within our State, and as a consequence thereof will add to the income of all artisans, tradesmen, and business of every description within our State; NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby appropriated out of the General Expenditure Fund to the Division of the Department of Conservation, for the fiscal year ending June 30, 1941, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky, 1940 Regular Session, known as House Bill No. ——, and entitled:

"An Act relating to billboards and the taxation thereof."

§ 2. There is hereby appropriated to the Division of Parks of the Department of Conservation, for the fiscal year ending June 30, 1942, in addition to other funds heretofore or hereafter provided by law, the sum of $25,000.00 or so much

thereof as shall equal the amount collected by the State under the provisions of an Act of the General Assembly of the Commonwealth of Kentucky, 1940 Regular Session, known as House Bill No. ——, and entitled:

"An Act relating to billboards and the taxation thereof."

By Mr. King.

H. B. 430. An Act prohibiting firms, persons or corporations from advertising or soliciting in any manner the business of preparing wills and settlement of estates of deceased persons and providing penalties for the violation thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any person, firm, financial institution, partnership or corporation which shall advertise by medium of newspapers, handbills, posters or in any other manner solicit the business of drafting wills or the settlement of estates of deceased persons shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Five Hundred ($500.00) Dollars nor more than Five Thousand ($5,000.00) Dollars for each offense, provided that each advertisement or solicitation as herein denounced shall constitute a separate offense. This Act shall become effective upon its passage and approval by the Governor as provided by law.

By Mr. Beard

H. B. 431. An Act exempting from taxation the property of patriotic societies and organizations of war veterans.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No taxes shall be levied, assessed or collected on the property of any patriotic society or organization of war veterans, when such property is used for a meeting place, officers' headquarters, hospital, orphanage, clubhouse, chapel, auditorium, picnic ground, athletic field, parade ground, camp, or any other use related to the purposes of the society or organization.

§ 2. Whereas, patriotic societies and organizations of war veterans are serving many useful public purposes in the communities where they exist, and are institutions of purely public charity within the meaning of the opinion of the Court of Appeals in *Commonwealth* v. *Young Men's Christian Association,* Kentucky Reports, Volume 116, page 711, and

Whereas, many such societies and organizations will soon be required to pay out large sums in county and municipal taxes if this Act does not go into effect immediately,

An emergency is declared, and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Bolling.

H. B. 432. AN ACT to repeal, amend and reenact section 35 of Article V of Chapter 65 of The Acts of the General Assembly of the Commonwealth of Kentucky for the year 1934, being section 4399-40 Kentucky Statutes, Baldwin's 1936 Edition relating to the levy and collection of taxes and the budget for school districts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 35, Article V, Chapter 65 of the Acts of the General Assembly for 1934, being Section 4399-40 Ken-

tucky Statutes, Baldwin's 1936 Edition, be and it is hereby repealed, amended and reenacted so that said section when so amended and reenacted shall read as follows:

"All school taxes shall be levied by the fiscal court of each county except in independent school districts embracing cities of the first, second, third, and fourth classes, when the boundary lines of independent districts in such cities are coterminous with the municipal limits of such cities. In such independent districts, the tax shall be levied and collected by the governing body of the city except as hereinafter provided. All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax levying authority as herein provided. It shall be the duty of the clerk of each county and the clerk of each city to certify to the school district or districts which the county or city may embrace as the case may be, the total assessed valuation of property in the school district as determined by its tax assessor, subject to taxation under the provisions of this act.

It shall be the duty of each board of education to prepare a school budget, showing the amount of money needed for current expenses, debt service, capital outlay and other necessary expenses of the schools during the succeeding fiscal year and also the estimated total amount which will be received from the common school fund and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount, which, in no event, shall be less than twenty-five cents (25c) nor more than one dollar and fifty cents ($1.50) annually on each one hundred dollars ($100) of property subject to local taxation, provided that no school district may request a tax levy in excess of the maximum levy now authorized for its particular type of district at the time of the passage of this act but this limitation shall not apply to districts located in cities of the second class and the maximum request for a tax levy in cities of the second class shall be $1.50, which is the same as that in cities of the third class. A copy of said budget shall be filed

with the clerk of the tax levying authority of the district, as herein provided on or before March 20, and it shall be the duty of said tax levying authority to make its annual school levy during the month of April unless the tax levying authority of a school district is required by law to make all of its levy, including the school levy, at a different time of the year. It shall be the duty of such clerk to present the budget to the proper tax levying authority when said authority convenes to make its school levy. At the same time a copy of the budget is filed with the clerk, a copy shall be filed with the State Board of Education for its approval. It shall be the duty of such tax levying authority to levy the rate specified by the district board of education and approved by the State Board of Education along with such poll tax as the district board of education may request, provided that the poll tax shall not exceed two dollars ($2) on each male inhabitant within the district over twenty-one years of age; provided further, there shall be no poll tax levied in an independent district embracing a city of the first class; and provided further that the failure of a board of education or a tax levying authority by inadvertence or otherwise to furnish such budget or make the levy within the date prescribed shall not invalidate any levy made thereafter; and provided further that the tax levying authority for an independent district embracing a city of the first class shall determine, within the tax limits set out herein, the rate of the levy which shall be made for school purposes in such district.

It shall also be the duty of each board of education, if so required by the State Board of Education, to prepare and submit to it not later than fifteen days after the state per capita has been officially declared a close estimate or working budget which shall conform to such rules and regulations as may be prescribed by the State Board of Education. The close estimate or working budget shall be consistent in its major divisions with the general budget previously prepared.

The money collected by taxation under the provisions of this act and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the tax levying authority as herein provided. One-half of the money raised by the levy under this act shall be used for supplementing teacher's salaries, provided this amount is necessary to pay all teachers the minimum salary provided herein, and after such minimum has been reached the money raised by such levies may be used as provided in the properly adopted budget but the amount necessary, as well as the levy necessary, for supplementing teacher's salaries and for other purposes herein set forth, must be itemized in the budget submitted by the board of education to the proper tax levying authority at the time the request for the levy is made.

The tax provided for herein shall be levied and collected in the same manner and at the same time as other local taxes are levied and collected, except as stipulated herein; provided that not more than one per cent (1%) of the school tax so collected may be paid to the tax collector as a fee for collecting same; and provided further that nothing in this act shall be construed to mean that any allowance shall be made for the collection of school taxes to any collecting officer who may continue to collect such taxes which was not allowed him prior to the passage of this act. It shall be the duty of the tax collector to pay on or before the tenth day of each month to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month, and the amount so paid together with the classes of property from which it was received shall be reported in writing to the treasurer of the board, and the report shall be accompanied by a duplicate of the receipt given to the tax collector by the depository for such moneys, and it shall be the duty of the tax collector to make final settlement with the district board of education at the same time he makes final settlement with the local taxing authority

to which he is responsible. Blanks for such purposes shall be furnished by the State Board of Education.

The laws applying to penalties on and the collection of delinquent school taxes shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts. The school tax provided for in this section is exclusive of any tax which may be levied for sinking fund purposes."

§ 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Bevins.

H. B. 433. An Act to amend and re-enact section four thousand and twenty six Kentucky Statutes, Carroll's one thousand nine hundred and thirty-six edition relating to property exempt from taxation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the section four thousand and twenty-six, Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six edition be amended and re-enacted so that said section when amended and re-enacted shall read as follows;

The following property is exempt from taxation; Public purposes; actually used for religious worship, with the grounds attached thereto, and used and appurtenant to the house of worship, not exceeding one-half acre in the cities or towns and not exceeding two acres in the country; place of burial not held for private or corporate profit; institution of purely public charity and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education; public libraries, their endowments, and the income of such

property as is used exclusively for their maintenance; all parsonages or residence owned by any religious society, and occupied as a home, and for not other purpose, by the minister of any religion with not exceeding one-half acre of ground in towns and cities, and two acres of ground in the country, appurtenant thereto; household goods or other personal property of a person with a family not exceeding seven hundred and fifty dollars ($750.00) in value; crops grown in the year in which the assessment is made and in the hands of the producer, so much land including dwelling house and appurtenance of person with a family residing in this Commonwealth and shall not exceed in value one thousand dollars ($1,000.00).

By Mr. Sloan.

H. B. 434. An Act relating to schools and subdistrict trustees and providing penalties for accepting compensation for the sale of schools or school teachers' contracts by subdistrict trustees.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any subdistrict trustee who shall at any time solicit, accept, receive or offer to accept or receive, either directly or indirectly, any sum of money from any person for the purpose of recommending or appointing any individual to any school or teaching position in this Commonwealth shall be guilty of a misdemeanor, and shall be fined in a sum of not less than Fifty ($50.00) Dollars, nor more than Five Hundred ($500.00) Dollars, and shall upon conviction be ineligible to hold any office relating to the common school system of Kentucky.

Any teacher or other person who gives to any subdistrict trustee any remuneration for a school or school contract,

shall be exempt from prosecution under this act if said teacher or other person appears as a witness against the trustee.

By Mr. Brown.

H. B. 435. AN ACT relating to the "Alcoholic Beverage Control Law" and more especially providing for an additional wine retailer's license; and repealing, amending, and re-enacting sections 6, 16, 17, 23, 54, 96, 99, and 121 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 6 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The Administrators, subject to the supervision and control of the Commissioner, shall exercise severally any of the functions, powers, and duties conferred upon the Department by law which the Commissioner may delegate to them. The Administrator of the Distilled Spirits Unit shall have authority to issue or refuse to issue any license provided for in this Act authorizing traffic in distilled spirits and wine; and the Malt Beverage Administrator shall have authority to issue or refuse to issue any license provided for in this Act, authorizing traffic in malt beverages and/or wine.

§ 2. That section 16 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The fiscal court of each county in this Commonwealth in which traffic in alcoholic beverages is not forbidden under

sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the county clerk immediately to notify the State Board of the amount of the taxes fixed. Only such licenses may be issued as correspond, in their provisions and the business authorized, to Retail Package Licenses, Retail Drink Licenses, Beer Retailer's Licenses and Wine Retailer's Licenses, as provided in this Act. The license fees or taxes imposed shall in no event exceed twice the amount of the fees or taxes imposed in sections 18 and 96 of this Act, and any amount paid to any incorporated city within the county as a license tax for the same privilege for the same year, may be credited against the county license tax. The licenses authorized by this section shall be issued and the taxes collected by the county clerk, who may charge a fee of fifty cents (50c) for his services for each license issued. The county clerk shall report and pay to the county treasurer at the end of each month such taxes as he has collected. No license shall be issued without the approval of the County Administrator if there be one in the county. The licenses shall be issued in such form as may be prescribed by the County Administrator, if there be one in the county; or, by the State Alcoholic Beverage Control Board if there be no County Administrator.

§ 3. That section 17 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

The city council, board of aldermen, or other municipal legislative body of each incorporated city in this Commonwealth in which traffic in alcoholic beverages is permitted under section 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of

engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the city clerk immediately to notify the State Alcoholic Beverage Control Board of the amount of the taxes fixed. Only such licenses may be issued as correspond in their provisions and the business authorized, to the licenses provided for in subsections (4), (5), and (6) of section 18, and sub-sections (2), (3), (6), and (7) of section 96 of this Act. The license fees or taxes imposed shall in no event exceed twice the amount of fees or taxes imposed in sections 18 and 96 of this Act, except that the fee or tax imposed upon beer retailers may be fixed at any sum not exceeding two hundred dollars ($200). The licenses authorized by this section shall be issued and the taxes collected by such appropriate municipal official as may be designated by ordinance, and he shall report and pay to the city treasurer at the end of each month such taxes as he has collected. No license shall be issued by the clerk without the approval of the City Administrator, if there be one in the city. The licenses shall be issued in such form as may be prescribed by the City Administrator, if there be one in the city; or, by the State Alcoholic Beverage Control Board if there be no City Administrator.

§ 4. That section 23 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

A Wholesaler's License shall authorize the holder thereof to purchase, receive, store, and possess distilled spirits and wine; to sell same at wholesale, from the licensed premises only; and to transport from his licensed premises for himself only any alcoholic beverage which he is authorized under his license to sell; provided that he so transports such beverages by truck, wagon, or other vehicle owned and operated by himself, and which shall have affixed to its sides at all times a sign of such form and size as may be prescribed by the State Alcoholic Beverage Control Board, containing among other

things, the name and license number of the holder of such license; and further provided that no distilled spirits shall be transported on the same truck or vehicle with malt beverages except by a common carrier; provided further, that he is to be permitted to transport distilled spirits and/or wine from a manufacturer's warehouse to his licensed premises, if consumer's spirits or wine stamps have been properly affixed to the spirits or wine which he so transports, and that no wholesaler shall transport distilled spirits or wine in interstate commerce.

§ 5. That section 54, subsection (8) thereof, of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

(8) No Retail Package License or Retail Drink License shall be issued for any premises used as or in connection with the operation of a grocery store or filling station. "Grocery store" shall be construed to mean any business enterprise in which a substantial part of the commercial transactions consist of selling at retail products commonly classified as staple groceries. "Filling station" shall be construed to mean any business enterprise in which a substantial part of the commercial transactions consist of selling gasoline and lubricating oil at retail. Provided, however, nothing herein contained shall apply in any manner to the holder of or business authorized by a beer and the Special Wine Retailer's License.

§ 6. That section 96 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

All licenses provided for in this section shall expire on June 30 of each year. The following kinds of licenses may be issued by the Malt Beverage Administrator:

(1) Brewer's License, the fee for which shall be one thousand dollars ($1,000) per annum.

(2) Distributor's License, the fee for which shall be one hundred dollars ($100) per annum.

(3) Beer Retailer's License, the fee for which shall be twenty-five dollars ($25) per annum.

(4) Dining Car License, the fee for which shall be twenty-five dollars ($25) per annum.

(5) Beer Transporter's License, the fee for which shall be five dollars ($5.00) per annum.

(6) Special Temporary License, the fee for which shall be one sixth of the taxes for a full year's license for each month or part of a month for which the Special Temporary License is issued.

(7) Wine Retailer's License, the fee for which shall be twenty-five dollars ($25) per annum.

§ 7. That section 99 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly be repealed, amended, and re-enacted, so that when amended and re-enacted it shall read as follows:

(a) A beer retailer's license shall authorize the holder to sell malt beverages at retail from the licensed premises only and to purchase malt beverages only from a brewer or distributor licensed under this Act.

(b) Any holder of a beer retailer's license may by the payment of an additional fee of $25 be authorized to sell wine by the package for consumption on or off the premises at retail from the licensed premises only and to purchase such wine only from a wholesaler of distilled spirits and wine licensed under this Act.

§ 8. That section 121 of chapter 2 of the Acts of the Regular Session of the 1938 General Assembly be and the same is hereby repealed, amended and re-enacted so that when re-enacted it shall read as follows:

"Construction or interpretation.—Irrespective of Title or Article headings the sections of this Act listed below shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such

application; sections 1 to 17 inclusive, 19, 20, 34, 36, 38, 39, 41 to 56 inclusive, 58 to 66 inclusive, 72 to 76 inclusive, 78, 79, 81, 88, 95, 119 to 121 inclusive. The following sections shall be construed to apply to the traffic in distilled spirits and wine only; 18, 21 to 33 inclusive, 35, 37, 40, 57, 67, to 71 inclusive, 77, 80, 82 to 87 inclusive, 89 to 94 inclusive. Sections 96 to 118 inclusive, shall be construed to apply to the traffic in malt beverages only, except where the context requires otherwise."

By Mr. Brown.

H. B. 436. H. B. 436. An Act relating to the annexation or reduction of territory by cities.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever it is deemed desirable to annex any territory to any city of any class or to reduce the boundaries thereof, the legislative body thereof may enact an ordinance defining accurately the boundary of the territory proposed to be annexed or stricken off, and such ordinance shall thereupon be published in at least five issues of the daily paper published in such city; or if there be no daily paper, then in at least two issues of a weekly paper published in the city; or if there be no daily or weekly paper published in such city, then by posting copies of the ordinance for at least ten (10) days in four of the most public places in the territory to be stricken off. In not less than thirty days after the enactment of such ordinance, if the publication or notice, as herein provided, has been made or given, and no petition is filed in the circuit court as provided in the next section, the legislative body of the city may, by ordinance, annex to the city the territory described in the ordinance hereinbefore mentioned, or reduce the limits, as the case may be; and upon the enact-

ment of such ordinance, such territory shall become a part of the city, or shall be stricken therefrom.

§ 2. Within thirty days after the enactment of an ordinance proposing to annex territory to the city or reduce the limits thereof, one or more residents or freeholders of the territory proposed to be annexed or stricken off may file a petition in the circuit court of the county, setting forth the reasons why such territory or any part thereof should not be annexed, or why the limits should not be reduced. Summons shall be issued thereon, and be executed on the mayor of the city or chairman of the board of the city as in other cases, and the answer of the city shall be filed within twenty days after the service of the summons. The case shall be tried as an equity case and without the intervention of a jury. If the court is satisfied, upon the hearing, that less than seventy-five per cent of the freeholders of the territory to be annexed or stricken off have remonstrated, and that the adding or striking off of such territory to the city or town will be for the interest of the city or town and will cause no material injury to the owners of real estate in the territory sought to be annexed or stricken off, it shall so find and the annexation or reduction shall be approved. If the court is satisfied that seventy-five (75%) per cent or more of the resident freeholders of the territory sought to be annexed or stricken off have remonstrated and that said change will cause material injury to the owners of real estate in the limits of the proposed extension or reduction, then, the annexation or reduction shall not take place. If the court finds that the proposed extension or reduction will not cause material injury to the city or to the owners of real estate in the limits of the proposed extension or reduction, then the annexation or reduction shall take place notwithstanding the remonstrance. An appeal from the judgment of the court may be taken, as in other cases, but there shall be no change of venue from the county. Costs shall follow the judgment. If the judgment of the court is adverse to annexation or reduction

no further effort to annex or strike off such territory shall be made within two years after the rendition of the judgment. But any judgment rendered adverse to annexation, under any previous law, shall not be a bar to proceedings to annex under this Act regardless of the time it was rendered. When any unincorporated territory is proposed to be annexed to any city under the provisions of this Act, the court may find any decree that all or a part or parts of such territory shall be added to the city, in which event the court shall specifically indicate and prescribe by metes and bounds, or other clear and specified description, the territory which the court finds should be so annexed, and that part only shall be annexed.

§ 3. The judgment shall, when entered, be certified to the legislative body of the city, who may thereupon annex to or strike from such city the territory described in the judgment, and the territory shall become or cease to become, as the case may be, a part of the city.

§ 4. In accordance with the provisions of this Act a city may annex the territory of a smaller city, but the annexation of the territory of a smaller city may be done only by ordinances devoted solely thereto, which ordinances must accurately define the boundaries of that territory of the smaller city which is sought to be annexed, and must name such of the debts and liabilities, and the corporate property, franchises, and rights of the smaller city, as will become by the annexation the liability or the property of the annexing city. The city annexing the territory of another shall be bound for all such debts and liabilities, and shall be the owner of all corporate property, franchises and rights of the city annexed. But if only a portion of the territory of a city is annexed, the amounts of the existing debts and liabilities which the city annexing the smaller city shall be bound for shall be in proportion as the value of the property annexed bears to the value of all the property of the city from which the territory is taken, as shown by the last preceding assessment of the assessor of such city.

§ 5. Sections 2761, 2762, 2763, 2764, 3050, 3050a, 3050a-1, 3050b, 3051, 3053, 3286, 3483, 3611, 3612, 3613, 3614, 3664, 3665, 3666, 3667, Carroll's Kentucky Statutes, 1936 edition, and sections 2664, 2664-1, and 2764-2 of Baldwin's Kentucky Statute Service, May, 1939, are hereby repealed.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.